

# FEDERAL REGISTER

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Washington, Thursday, November 28, 1940

## The President

### EXECUTIVE ORDER

#### EXTENDING THE PERIOD OF ELIGIBILITY ON CIVIL SERVICE REGISTERS OF PERSONS WHO SERVE IN THE ARMED FORCES OF THE UNITED STATES

By virtue of the authority vested in me by the provisions of paragraph Eighth of subdivision SECOND of section 2 of the Civil Service Act (22 Stat. 403, 404), it is ordered that no period of time served in the armed forces of the United States under the provisions of the act authorizing the President to order members and units of reserve components and retired personnel of the Regular Army into active military service, approved August 27, 1940 (Pub. Res. No. 96, 76th Cong.), as amended, or the Selective Training and Service Act of 1940, approved September 16, 1940 (Pub. No. 783, 76th Cong.), shall be counted in determining the period of eligibility for appointment of those persons whose names appear on eligible registers of the Civil Service Commission at the time of entering the service of their country under the provisions of the said acts or who attain eligibility during such service: *Provided*, That such persons shall notify the Civil Service Commission within forty days after their service in the armed forces has terminated that they desire to have the benefits of this order.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,  
November 25, 1940.

[NO. 8602]

[F. R. Doc. 40-5130; Filed, November 26, 1940;  
2:12 p. m.]

## Rules, Regulations, Orders

### TITLE 9—ANIMALS AND ANIMAL PRODUCTS

#### CHAPTER I—BUREAU OF ANIMAL INDUSTRY

[Rule 1, Revision 39]

#### PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

#### PREVENTION OF THE SPREAD OF SPLENETIC OR TICK FEVER IN CATTLE

Pursuant to the authority conferred upon the Secretary of Agriculture by the Act of Congress approved March 3, 1905 (33 Stat. 1264; 21 U.S.C. 123-127), Title 9, Chapter 1, Subchapter C, Part 72, of the Code of Federal Regulations, as amended, is hereby further amended as follows:

(1) Section 72.2 is amended to read:  
*§ 72.2 Splenetic or tick fever in cattle in described territory in Florida and Texas; prohibiting interstate movement of cattle.* Notice is hereby given that the contagious and infectious disease known as splenetic or tick fever exists in cattle in portions of the States of Florida and Texas. Therefore, those portions of Florida and Texas described in §§ 72.3 and 72.5, are hereby quarantined, and the interstate movement of cattle therefrom shall be made only in accordance with the provisions of Parts 71 and 72. [Regs. 1 and 2, B. A. I. Order 3091]

(2) Section 72.3 is amended to read:  
*§ 72.3 Area quarantined in Florida.* The following counties are quarantined: Collier and Hendry.

(3) Section 72.4 is revoked.

## CONTENTS

### THE PRESIDENT

Executive Order:	Page
Civil Service, extending period of eligibility on registers of persons who serve in armed forces of U. S.-----	4673

### RULES, REGULATIONS, ORDERS

#### TITLE 9—ANIMALS AND ANIMAL PRODUCTS:

Bureau of Animal Industry:	
Prevention of spread of splenetic or tick fever in cattle in Florida and Texas-----	4673

#### TITLE 25—INDIANS:

Office of Indian Affairs:	
Ahtanum Indian Irrigation Project, Wash., operation and maintenance charges amended-----	4676

#### TITLE 31—MONEY AND FINANCE:

Bureau of Accounts:	
Certificates of deposit, amendment-----	4676

#### TITLE 36—PARKS AND FORESTS:

Forest Service:	
National forests, regulations governing occupancy, etc., amendment-----	4676

#### TITLE 43—PUBLIC LANDS: INTERIOR:

General Land Office:	
Special land-use permits for lands within or outside of grazing districts-----	4676

### NOTICES

#### Department of Agriculture:

Commodity Exchange Administration:	
New York Produce Exchange designated as contract market for cottonseed oil, soybean oil, and tallow-----	4691

(Continued on next page)

4673



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#### CONTENTS—Continued

Department of Agriculture—Con.	
Rural Electrification Adminis-	
tration:	Page
Allocation of funds for loans	4691
Department of the Interior:	
Bituminous Coal Division:	
Binkley Mining Company of	
Missouri, memorandum	
opinion and temporary	
relief order	4687
District Board No. 3, and cer-	
tain individual producers;	
hearings consolidated,	
etc	
District Board No. 8, et al.,	
petition dismissed; causes	
for hearing separated;	
hearings postponed	4685
Hearings and temporary re-	
lief orders:	
Coryell Coal Co.	4686
District Board No. 11	4684
Sycamore Coal Corp.	4685
Wheeling Township Coal	
Mining Co.	
Ohio and Pennsylvania Coal	
Co., and Powhatan Min-	
ing Co., denial of relief	4684
Pittsburgh Coal Co., hearing	4687
Bureau of Reclamation:	
Provo River Project, Utah, first	
form reclamation with-	
drawal	4688
General Land Office:	
Ketchum, Idaho, regulations	
for sale of town lots	4688
Nebraska, recreation with-	
drawal revoked	4691
Grazing Service:	
Arizona, grazing district modi-	
fication	4691
Office of Indian Affairs:	
Shoshone Indian reservation	
proclaimed	4691

#### CONTENTS—Continued

Department of Labor:	
Wage and Hour Division:	
Holland, Thomas W., author- ized to act temporarily in absence of Administrator, etc	4692
Jewelry manufacturing indus- try, definition amended	4691
Special learner certificates, notice of issuance for various industries (2 doc- uments)	4692
Federal Communications Commis-	
sion:	
Hearings:	
Brown Radio Service & Lab- oratory	4693
Doyle, Edward J.	4694
Gillespie, T. B.	4694
Lee, Robert V.	4694
Interstate Commerce Commission:	
Applications to:	
Acquire control of a motor carrier, etc	4698
Merge properties, etc., of a motor carrier	4698
Class rate investigation; consol- idated freight classification	4698
Organization schedules, etc., of	
the Commission	4695
Securities and Exchange Commis-	
sion:	
Merrill, Joseph L., amendment of order to show cause and for hearing	4698
Wilkes-Barre & Eastern Rail- road Co., hearing	4698
War Department:	
Contract summaries:	
Beech Aircraft Corp.	4680
Headman, Ferguson & Carollo	4679
Le Roi Co.	4678
Webb, Del E., Construction Co., et al.	4679
(4) Section 72.5 is amended to read:	
§ 72.5 <i>Area quarantined in Texas</i>	
(a) <i>Description.</i> The following portions	
of counties are quarantined: That part	
of Cameron County lying south of the	
following-described line—beginning at	
the point where the Brownsville ship	
channel enters the Gulf of Mexico fol-	
lowing said ship channel in a southwest- erly direction to Port Brownsville, thence	
in the same direction along the Port	
Brownsville-Brownsville Road to where	
it crosses Ranchito Visjo Resaca, thence	
in a northwesterly direction following	
the Ranchito Visjo Resaca to the Sam	
Houston Boulevard Road, thence in a	
southwesterly direction to the Ranger-	
ville-San Benito Road, thence in a	
northwesterly direction along said road	
to the intersection of the Rangerville-	
Harlingen Road, thence in a northeast- erly direction to the intersection of the	
county road known as the Rangerville- Arroyo Colorado Low Bridge Road, fol- lowing said road to the Arroyo Colorado, a distance of approximately 2.7 miles, thence following the Arroyo Colorado in a westerly direction to the Cameron- Hidalgo County line. That part of Hidalgo County lying south and west of, and including all incorporated and unin- corporated town sites intersected by, a line beginning at a point where the main line of the Missouri Pacific Rail- road which runs between Harlingen and Rio Grande City, Tex., intersects the Cameron-Hidalgo County line, running thence in a westerly direction along the north line of said railroad right-of-way to a point where it intersects the east survey line of Porcion 80, thence north- erly along said survey line to a point where it intersects the West Edinburg Road, thence westerly along the north right-of-way of said road to its inter- section with the west survey line of Porcion 73, thence northerly on said survey line to a point where it intersects the Monte Christo Road, thence westerly along said road to its intersection with the Starr-Hidalgo County line. That part of Kinney County lying west of the following-described line—beginning at a point where the Kinney-Val Verde County line is intersected by Highway No. 85, running thence southeasterly along said highway to the intersection of the Kinney-Maverick County line. That part of Maverick County lying west of the following-described line—begin- ning at a point where Highway No. 85 intersects the Kinney-Maverick County line, running thence in a southeasterly direction along said highway to a point about $4\frac{1}{2}$ miles northwest of the post office in Quemado where the bridge on Highway No. 85 crosses the Maverick County Water Control Improvement District Canal, thence in an easterly, southerly and westerly direction along said canal to a point about 7 miles southeast of said post office in Quemado where the bridge on Highway No. 85 crosses this canal, thence in a south- easterly direction along Highway No. 85 to the north boundary line of the city of Eagle Pass, thence in an easterly direction along said line to its intersec- tion with the Southern Pacific Rail- road, thence southerly along the said railroad to the Kifuri Overall Factory premises, thence in an easterly direction along the north survey line of said premises to the Eagle Pass-Laredo River Road, thence in a southeasterly direc- tion along this road to the Maverick- Webb County line. That part of Starr County lying south and west of, and including all incorporated and unin- corporated town sites intersected by, a line beginning at a point where the Roma- Hebronville Road intersects the Jim Hogg-Starr County line, running thence	

in a southerly direction along said road to a point where it intersects the southwest survey line of the Buena Vista ranch, running thence southeasterly along the south line of this ranch to a point where it intersects the southwest line of the Las Escobas ranch, following the southwest line of this ranch to the south corner, running thence in a northeasterly direction along the ranch survey line to where it intersects the Las Escobas-Monterrey Road, running thence in a southeasterly direction to a point where this road intersects the east survey line of the Francisco-Antonio Villerreal Survey 108, thence southerly on this survey line to a point where it intersects the east El Saus Road, thence running southeasterly along this road to a point where it intersects the Rio Grande-Corpus Christi Road, thence running southerly on the west survey line of section 519 and easterly on the south survey line of sections 519 and 520 to the east line of section 520, thence running southerly on the east line of section 134 to the southeast corner of the survey, thence westerly on the south line of section 134 to a point where it intersects the east line of section 503, thence southerly on the west survey line of the Rincon ranch to its southwest corner, thence easterly on the south line of the Rincon ranch to where it intersects the Hidalgo-Starr County line. That part of Val Verde County lying south and west of the following-described line—beginning at the mouth of Devils River where it empties into the Rio Grande River, thence up Devils River in a northerly direction to the bridge on U. S. Highway No. 90 over said river, thence in a southeasterly direction along U. S. Highway No. 90 to a point where it intersects the city limits of Del Rio, thence in a westerly direction along the north boundary line of the city of Del Rio, to the northwest corner of said city, thence in a southerly direction along the west boundary line of the city of Del Rio to the southwest corner of said city, thence in an easterly direction along the south boundary line of the city of Del Rio to the southeast corner of said city, thence northerly along the east boundary line of the city of Del Rio to a point where Highway No. 85 intersects the east boundary line of said city, thence in a southeasterly direction along the new route of Highway No. 85 to the Val Verde-Kinney County line. That part of Webb County lying south and west of the following-described line—beginning at a point on the Dimmit-Webb County line where the Military Road intersects said line and following the Military Road in a southeasterly direction to where this road intersects the south survey line of the C. C. Tribble ranch, approximately 32 miles; following said line in a northeasterly direction to the intersection of the south survey line of the Y. Benavides

Arroyo pasture, approximately  $6\frac{1}{2}$  miles; thence in a southeasterly direction on said line to the intersection of the north survey line of the Louis Puig ranch, approximately  $4\frac{1}{4}$  miles; thence in a northeasterly direction to a point where this line intersects the Las Tiendas Road, approximately four-fifths of a mile; thence in a southeasterly direction along said road to where the Las Tiendas Road intersects the Rio Grande and Eagle Pass Railroad, approximately  $6\frac{1}{2}$  miles; following this railroad in a southeasterly direction to where it intersects the south survey line of the L. R. Ortiz ranch, approximately 4 miles; running thence in a northeasterly direction along said survey line to the northwest corner of the H. W. Nixon Farias pasture, approximately  $4\frac{1}{4}$  miles; thence in a southeasterly direction along this survey line to the southwest corner of the pasture, approximately  $1\frac{1}{2}$  miles; running thence in a northeasterly direction along the survey line to where it intersects the old San Antonio Road, approximately two-fifths of a mile; following said road in a southwesterly direction to where it intersects the south L. R. Ortiz survey line, approximately 4 miles; thence in a southeasterly direction along said survey line to the intersection of the north survey line of the A. M. Bruni ranch, Tanquecitos pasture, approximately 4 miles; following this survey line in a southeasterly direction to where it intersects the Laredo-Hebronville Highway (U.S. 96), approximately  $3\frac{1}{2}$  miles; thence in a westerly direction along this highway to the northwest corner of the S. V. Edwards survey, approximately one-eighth of a mile; thence south along the west survey line of the Edwards and M. A. Hirsch ranches to the southwest corner of the Hirsch ranch, approximately  $2\frac{1}{2}$  miles; thence in an easterly direction along the south survey line of the Hirsch ranch to where it intersects the A. M. Bruni Tulle ranch, approximately  $8\frac{1}{2}$  miles; following the west survey line of this pasture south to where it intersects the A. M. Bruni Jaral pasture, approximately  $2\frac{1}{2}$  miles; thence following the north survey line to the northeast corner of the pasture; thence along the east survey line to the southeast corner of this Jaral pasture; thence along the south survey line of this pasture to the Webb-Zapata County line, approximately  $2\frac{1}{2}$  miles. That part of Zapata County lying west of the following-described line—beginning at a point on the Starr-Zapata County line where the Perdenal ranch's east survey line intersects said county line; thence in a northwesterly direction along said survey line to the Las Arbitas ranch, approximately  $3\frac{1}{2}$  miles; thence following the northeast

survey line of said ranch to its intersection with the Lampasitas ranch survey line, approximately 1 mile; thence along the northeast survey line of said ranch to its northeast corner, approximately 3 miles; thence along the northeast survey line of the Buenos Aires ranch to its northeast corner, approximately  $3\frac{1}{2}$  miles; thence along the east survey line of the Porvenir ranch approximately two-fifths of a mile to a right corner; thence east on said survey line to the intersection of the La Sabana ranch southwest survey line, approximately 1 mile; thence in a northwesterly direction to the northwest corner of said ranch, approximately  $1\frac{1}{2}$  miles; thence in a northeasterly direction along the northwest survey line of this ranch to its northeast corner, approximately  $1\frac{1}{2}$  miles; thence along the northeast survey line of the Humaran ranch to the Bandera pasture, approximately  $4\frac{1}{2}$  miles; thence along the northeast survey line of this pasture to the San Antonio ranch, approximately two-fifths of a mile; following the survey line of this ranch east, approximately one-fourth of a mile; thence northwest approximately  $1\frac{1}{2}$  miles to the intersection of the Salomoneno ranch; thence southwest along the south line of said ranch, approximately  $1\frac{1}{2}$  miles; thence northwest along the west survey line to the intersection of the Venados ranch, approximately  $2\frac{1}{2}$  miles; thence following the southwest survey line of this ranch in a northwesterly direction to the intersection of the Union ranch, approximately  $5\frac{1}{2}$  miles; thence following the northeast survey line of this ranch to the intersection of the Santa Nina pasture, approximately 3 miles; thence following the northeast survey line of the Santa Nina ranch in a northwesterly direction to its northeast corner, approximately  $1\frac{1}{2}$  miles; thence along the north survey line of the E. Gutierrez pasture in a northeasterly direction to the Jaral pasture, approximately four-fifths of a mile; thence northwest along the west line of said pasture to the northwest corner, approximately  $1\frac{1}{2}$  miles; thence in a northeasterly direction along the northwest survey line of this pasture to the Webb-Zapata County line, approximately  $7\frac{1}{2}$  miles.

(b) *Feeding station for noninfected cattle maintained in Texas.* Properly equipped, noninfectious pens are maintained by the International and Great Northern Railroad Co. within the quarantined area at Laredo, Webb County, Texas.

This rule 1, revision 39, which for the purposes of identification is designated as B.A.I. Order 374, shall become effective on December 15, 1940, and shall supersede rule 1, revision 38. [B.A.I. Order 372]

Done at Washington, D. C., this 26th day of November 1940.

Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,  
Secretary of Agriculture.

## INTERPRETATION

The effect of this order is as follows:

In Florida: The remainder of Orange and Osceola Counties is released from quarantine.

In Texas: A part of Val Verde County is released from quarantine; and a part of Maverick County is quarantined.

In Puerto Rico: The remainder of Puerto Rico is released from quarantine.

[F. R. Doc. 40-5161; Filed, November 27, 1940;  
11:34 a. m.]

## TITLE 25—INDIANS

## CHAPTER I—OFFICE OF INDIAN AFFAIRS

## SUBCHAPTER L—IRRIGATION PROJECTS: OPERATION AND MAINTENANCE

## PART 130—ORDER FIXING OPERATION AND MAINTENANCE CHARGES

*Amendment to Order Fixing Operation and Maintenance Charges on the Ahtanum Indian Irrigation Project, Washington*

The Order of the Secretary of the Interior approved on February 28, 1934 (25 CFR 130.1-130.5), fixing operation and maintenance charges on the Ahtanum Indian Irrigation Project, Washington, is amended to read as follows:

**§ 130.1 Charges.** In compliance with the provisions of the Act of August 1, 1914 (38 Stat. 583; 25 U.S.C. 385), the operation and maintenance charges for the lands of the Ahtanum Indian Irrigation Project, Washington, are hereby fixed for each year until further notice as follows:

All irrigable lands to which water can be delivered, per acre, \$0.75.\*†

\* §§ 130.1 to 130.5a, inclusive, issued under the authority contained in 38 Stat. 583, 45 Stat. 210; 25 U.S.C. 385, 387.

† The source of §§ 130.1 to 130.5a, inclusive, is Order fixing operation and maintenance charges on the Ahtanum Indian Irrigation Project, Washington, Secretary of the Interior, Feb. 28, 1934, amended by Order Asst. Secretary of the Interior, November 13, 1940.

**§ 130.2 Time of payment.** The charges as herein fixed shall become due April 1 of each year, and are payable on or before that date. To all the charges assessed against owners of patent in fee lands not paid on July 1 of the year in which they fall due, there shall be added a penalty of one-half of 1 percent per month, or fraction thereof, from April 1 of that year, so long as the delinquency continues.\*†

**§ 130.3 Deliveries to fee owners.** No water shall be delivered to patent in fee landowners, until at least 50 percent of the current year's charges herein assessed is paid, and water delivery shall not be

continued after July 1, unless the total charges for the year shall have been paid.\*†

**§ 130.4 Deliveries to Indian farmers.** No water shall be delivered to Indians farming their own land, until the charges are paid to the Indian Irrigation Service as required of patent in fee owners in § 130.3, or until the Superintendent of the reservation shall have issued a certificate to the Project Engineer certifying that the Indian will pay such charges through the Superintendent or that such Indian is financially unable to pay the charge, and such unpaid charges shall be entered on the accounts as a first lien against the land, without penalty.\*†

**§ 130.5 Deliveries to lessees.** No water shall be delivered to lessees of Indian lands or non-Indian lands, until the lessee shall have paid as required in the case of patent in fee owners, § 130.3. Or, in cases where the terms of the lease provide that the landowner shall pay the operation and maintenance charges from the lease rental, no water shall be delivered until the Superintendent of the reservation shall have furnished the Project Engineer a certificate stating that the lessee has fully complied with all the terms of the lease.\*†

**§ 130.5a Water users responsible for water after delivery.** It is the duty of the Indian Irrigation Service to furnish water for beneficial irrigation use only. It is the duty of all water users, as designated in §§ 130.3 to 130.5, inclusive, to assist in the prevention of waste and the prevention of damage to adjacent lands. The water users are responsible for the water after it has been delivered to their lands and are required to have their field ditches in suitable condition and of proper capacity to permit the use of economical heads of water.\*†

OSCAR L. CHAPMAN,  
Assistant Secretary of the Interior.

[F. R. Doc. 40-5140; Filed, November 27, 1940;  
10:04 a. m.]

TITLE 31—MONEY AND FINANCE:  
TREASURY

## CHAPTER II—BUREAU OF ACCOUNTS

[1940, Supp. 11, Department Circular 176]

## PART 202—DEPOSIT OF PUBLIC MONEYS AND PAYMENT OF GOVERNMENT CHECKS AND WARRANTS

NOVEMBER 23, 1940.

Treasury Department Circular No. 176, dated September 2, 1930, as amended, is hereby further amended by deleting the third sentence of paragraph 3 of section 6 (Certificates of deposit), appearing also as the third sentence of paragraph 3 of § 202.6, Title 31, Part 202 of the Code of Federal Regulations of the United States of America, and inserting in lieu thereof the following:

The form of receipt incorporated on the original and copies of all certificates

must be dated and signed by a duly authorized officer or employee acting on behalf of the depositary. This signature may be in any one of the following forms: (1) a manual signature of a duly authorized officer or employee followed by the title of such officer or employee; (2) a rubber stamp impression containing the name of the depositary supported by the manual initial of the receiving officer or employee and followed by his title; (3) a facsimile or rubber stamp impression signature of a duly authorized officer over his official title, supported by the manual initial of such officer or the employee receiving the deposit; or (4) a facsimile or rubber stamp impression signature of a duly authorized employee over his official title, supported by the manual initial of such employee. All initials or manual signatures should be in ink.

[SEAL] D. W. BELL,  
Acting Secretary of the Treasury.

[F. R. Doc. 40-5131; Filed, November 26, 1940;  
3:09 p. m.]

## TITLE 36—PARKS AND FORESTS

## CHAPTER II—FOREST SERVICE

## PART 251—LAND USES

## AMENDMENT OF REGULATIONS GOVERNING OCCUPANCY, USE, PROTECTION, AND ADMINISTRATION OF NATIONAL FORESTS

By virtue of the authority vested in the Secretary of Agriculture by the Act of June 4, 1897 (30 Stat. 11, 35), as amended by the Act of February 1, 1905 (33 Stat. 628; 16 U.S.C. 472, 551), I, Claude R. Wickard, Secretary of Agriculture, do hereby amend § 251.2, Title 36, Code of Federal Regulations (Regulation L-2 of the Rules and Regulations governing the occupancy, use, protection, and administration of the National Forests), by adding the following paragraph:

(r) Occupancy of buildings for protection against fire, trespass, and other damage.

In witness whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the City of Washington, this 26th day of November 1940.

[SEAL] CLAUDE R. WICKARD,  
Secretary of Agriculture.

[F. R. Doc. 40-5163; Filed, November 27, 1940;  
11:34 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR  
CHAPTER I—GENERAL LAND OFFICE

[Circular No. 1483]

## PART 258—SPECIAL LAND-USE PERMITS FOR PUBLIC LANDS WITHIN OR OUTSIDE OF GRAZING DISTRICTS

**§ 258.1 Statutory authority.** Authority to issue special land-use permits for

public lands within or outside of grazing districts for purposes other than grazing is found in section 453 Revised Statutes (43 U.S.C. 2), which provides that the Commissioner of the General Land Office shall perform, under the direction of the Secretary of the Interior, all executive duties appertaining to the surveying and sale of the public lands of the United States, or in anywise regarding such public lands.

**§ 258.2 Policy; use of lands.** It is the policy of the Secretary of the Interior, in the administration of the public lands within or outside of grazing districts, to permit, where practical, the beneficial use thereof for special purposes not specifically provided for by the existing public land laws. Permits for such special use will not be issued, however, in any case where the provisions of the existing public land laws may be invoked. For example, they will not be issued to authorize the use of the public lands for home, cabin, camp, health, convalescent, recreational or business sites for which leases may be issued under the act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a), or for the development of minerals, or for the securing of rights of way obtainable under existing laws, or for any use directly or indirectly relating to grazing.

The contemplated use must not be in conflict with any Federal or State laws.

An applicant must state in his application the use to which he intends to put the lands, and he will not be permitted to devote them to any other use, unless he secures an additional permit.

**§ 258.3 Qualifications of applicants.** Any person, over 21 years of age, who is a citizen of the United States, or who has declared his intention to become a citizen, or any group or association composed of such persons, or any corporation organized under the laws of the United States or of any state or territory thereof, authorized to conduct business in the state in which the land involved is situated, or any agency of the Federal government, or any State or political subdivision thereof, may file such application.

**§ 258.4 Execution of applications.** Applications must be executed in duplicate on Form 4-972, which is attached to and made a part thereof. The application must be filed in the proper district land office, or if there is no district land office in the state, it must be filed in the General Land Office. The original application must be sworn to before the register of a district land office, or before a notary public or other officer having a seal and authority to administer oaths in public land cases.<sup>1</sup>

<sup>1</sup>In view of the fact, as hereinafter provided, each application embracing lands in a grazing district is to be the subject of a report from the Grazing Service, preliminary discussion with the regional grazier concerning any such contemplated application may serve to bring about a common understanding and avoid future delays.

**§ 258.5 Fees.** A fee of \$5 will be required with each application, except applications by agencies of the Federal Government and agencies of the States and political subdivisions thereof. The fee paid by an applicant will be returned if the application is rejected.

**§ 258.6 Occupancy of land prior to permit.** An application for special land-use permit will not entitle the applicant to occupy the land prior to the issuance of a permit. Any occupation of the land prior to the issuance of a permit, or use thereafter except in accordance with the terms of the permit, is hereby prohibited.

**§ 258.7 Issuance of permits; other actions; protests.** The Commissioner of the General Land Office will issue special land-use permits and except as herein-after provided will take all action required in connection therewith, including the modification, renewal, assignment and cancellation of the permits, and the disposition of protests and conflicting applications. All proceedings will be in accordance with the Rules of Practice of the Department of the Interior, as amended.

The Commissioner will not issue a special land-use permit in any case embracing lands in a grazing district until the Director of Grazing has reported that the permit, if issued, will not interfere with the proper administration of the grazing district. The permit will be issued on Form 4-972a, attached hereto, and will be subject to all of the conditions stated thereon and to such other conditions as may be added thereto.

**§ 258.8 Term of permit; renewal.** A special land-use permit may be issued for a period of not exceeding 5 years and will be revocable for any breach of condition thereof. It also will be revocable in the discretion of the Commissioner of the General Land Office, at any time, upon notice, if in his judgment the lands should be devoted to another use. Upon the expiration of a permit, if the permittee has complied with the provisions thereof, he will be considered the preferred applicant for a new permit under regulations then in force, provided no superior claim to the land has been asserted in the meantime.

**§ 258.9 Rental.** Each permittee will be required to pay to the register, in advance, the annual rental fixed by the permit, which shall be based upon the value of the land for the use to which it is to be put. The annual rental may be adjusted from year to year, in the discretion of the Commissioner of the General Land Office. In no case, however, will the minimum rental charge be fixed at less than \$5 per annum.

Special land-use permits applied for by agencies of the Federal Government and agencies of States and political subdivisions thereof may, in the discretion of the Secretary of the Interior, be issued without rental charge.

**§ 258.10 Permit area; description and marking of land.** A special land-

use permit will not be issued for more than 5 acres, except upon a showing of special need, satisfactory to the Commissioner of the General Land Office. The land must be vacant public land, or public land withdrawn or reserved under authority of the Secretary of the Interior, surveyed or unsurveyed. If surveyed, the land must be described in the application by legal subdivisions of the public land surveys. The smallest legal subdivision in a quarter-quarter section or fractional lot that will be considered is  $\frac{1}{2}$  acres. Where, however, a fractional lot contains less than  $\frac{1}{2}$  acres, a permit may be issued for the entire lot. If unsurveyed, the land must be described by metes and bounds, with substantial monuments at each corner and with a tie to a nearby corner of the public land surveys, if feasible. If such tie is not feasible, the location must be otherwise identified with certainty, preferably with reference to prominent topographic or cultural features. The land must be taken in rectangular form, if at all practicable.

**§ 258.11 Land not segregated.** A special land-use permit will be subject to valid adverse claims theretofore or thereafter acquired and to the filing of applications and the acquisition of rights by others, as follows:

(a) Applications and selections may be made under nonmineral laws, subject to the revocation of the permit.

(b) The mineral contents in the land shall at all times be subject to prospecting, location, developing, mining, entering, leasing or patenting under the provisions of the applicable general mining laws or mineral leasing laws.

(c) The special land-use permit shall be subject to any permit issued under the act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431-433), to explore for objects of antiquity on the public lands.

(d) The special land-use permit shall not restrict the acquisition by grant or permit of rights of way under existing laws.

**§ 258.12 Timber.** A special land-use permit will not entitle an applicant to cut and remove timber from the land. If he wishes to cut and remove the timber, application therefor must be made in accordance with the governing laws and regulations.

**§ 258.13 Special stipulations in permit.** If it is found that unusual conditions or the protection of the public interests require the insertion of special stipulations in the permit, the applicant will be advised thereof prior to its issuance.

**§ 258.14 Assignment of permit.** A permittee will not be allowed to assign a permit or any interest therein without the approval of the Commissioner of the General Land Office. Proposed assignments must be supported by a statement signed by the assignee agreeing to be bound by the provisions of the permit, if

## FEDERAL REGISTER, Thursday, November 28, 1940

the assignment is approved, and a showing that the assignee possesses the qualifications set out in § 258.3.

**§ 258.15 Removal of improvements.** The permittee, if all rental charges due the Government have been paid, may remove within such reasonable time as may be allowed by the Commissioner of the General Land Office after the revocation or expiration of a permit, all structures which have been placed upon the premises by him or his assignor. If the permittee fails to make payment of the rental charges within 30 days from receipt of notice requiring payment, or upon revocation or expiration of the permit fails to remove the structures within the time required by the Commissioner, the structures will become the property of the United States.

**§ 258.16 Refund.** No refund of rentals properly paid will be made because of the revocation of the permit, at any time, or because of interference with or prevention of the exercise of the privileges conferred by the permit by mineral prospectors, locators, licensees, permittees, lessees, or patentees, or by permittees under the act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431-433), or by grantees or permittees of rights of way under existing laws.

JOEL DAVID WOLFSON,  
Acting Assistant Commissioner.

Approved: November 19, 1940.

OSCAR L. CHAPMAN,  
Assistant Secretary.

[Form 4-972]

UNITED STATES DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE

[This application must be prepared and filed  
in duplicate]

Serial No. \_\_\_\_\_  
(Location of district land office) Receipt No. \_\_\_\_\_

Application for Special Land-use Permit

(1) The undersigned \_\_\_\_\_ of \_\_\_\_\_ (street and number or other address) \_\_\_\_\_ (City or town and State) hereby applies for a special land-use permit for vacant public land, described as follows (See § 258.10 of regulations):

Section \_\_\_\_\_, Township \_\_\_\_\_, Range \_\_\_\_\_ Meridian, containing \_\_\_\_\_ acres, and agrees that such permit, if issued, may be revoked at any time, in the discretion of the Commissioner of the General Land Office, upon notice.

(2) For what period, not exceeding five years, do you desire a permit?

(3) Age and citizenship of applicant, if an individual. (If citizenship is claimed by naturalization, evidence thereof must be furnished)

(4) Is applicant a corporation, partnership or an association?

(5) Facts as to springs or water holes, if any, on the land, and as to other waters, if any, on or having a relation to the land.

(6) From what source do you propose to obtain water for domestic or other use?

(7) To the best of your knowledge, does the land contain minerals? If so, state the facts.

(8) Does the land contain timber? If so state the facts.

(A permittee is not entitled to cut timber, unless he obtains a permit to cut it, in accordance with the governing laws and regulations.)

(9) What use do you propose to make of the land?

(10) What improvements do you intend to make on the land?

(Describe the improvements in detail. Attach drawing, if convenient.)

(11) Give the estimated cost of the proposed improvements. \$ \_\_\_\_\_ Of the annual maintenance of the proposed improvements. \$ \_\_\_\_\_

(12) What sanitation and toilet facilities will be provided?

(13) Do you agree to observe all Federal, State and local laws and regulations applicable to the premises and to keep the premises in a neat, orderly and sanitary condition?

(14) Is this application made for your own use and benefit?

(15) Is the land now improved, occupied or used? If so, by whom and for what purposes?

(Name and address)

(Purposes for which land is used)

(16) Have you examined the land? If so, when?

Subscribed and sworn to before me at my office at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 1940.

(Official designation of officer)

If the applicant is an individual, he should sign the application with his full Christian name and surname; if a corporation, a certified copy of the articles of incorporation, together with a copy, signed by proper official, of the minutes of the meeting authorizing the filing of the application must be submitted; and if an association or partnership, a copy of the constitution and by-laws, or articles of agreement, and evidence of the citizenship of each member must be furnished.

[Form 4-972a]

UNITED STATES DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE

Serial No. \_\_\_\_\_

(Location of district land office)

Special Land-Use Permit

Permission is hereby granted to \_\_\_\_\_ of \_\_\_\_\_ to use the following described lands: \_\_\_\_\_ for the purpose of \_\_\_\_\_ subject to the following conditions:

(1) This permit is issued for the period from \_\_\_\_\_ 19\_\_\_\_ to \_\_\_\_\_ 19\_\_\_\_, and is revocable for any breach of the conditions hereof. It is also revocable at the discretion of the Commissioner of the General Land Office, at any time, upon notice, if in his judgment the lands should be devoted to another use. The permit is subject to valid adverse claims heretofore or hereafter acquired.

(2) The permittee shall pay annually, in advance, to the register as rental the sum of \_\_\_\_\_ dollars, or such other sum as may be required if an adjustment of rental is made.

(3) The permittee shall observe all Federal, State, and local laws and regulations applicable to the premises, including the regulations for the protection of game birds and game animals, and shall keep the premises in a neat, orderly and sanitary condition.

(4) The permittee shall take all reasonable precautions to prevent and suppress forest, brush and grass fires, and to prevent the pollution of waters on or in the vicinity of the lands.

(5) The use or occupancy of the land under this permit shall commence within

months from the date hereof and shall be exercised at least \_\_\_\_\_ days each year.

(6) Authorized representatives of the Department of the Interior and other Federal agencies, and game wardens shall at all times have the right to enter the premises on official business.

(7) The permittee shall not enclose roads or trails commonly in public use.

(8) The permittee shall pay the United States for any damage to its property resulting from this use.

(9) The permittee shall immediately notify the register of the district land office of a change of address.

(10) This permit is subject to all of the provisions of the law and regulations under which it is issued, which, together with the application, are made a part thereof.

(11) Special stipulations:

THE UNITED STATES OF AMERICA,  
Commissioner of the General Land Office.

[F. R. Doc. 40-5138; Filed, November 27, 1940;  
10:04 a. m.]

## Notices

### WAR DEPARTMENT.

[Contract No. W 978 eng-1439]

### SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: LE ROI COMPANY

Contract for: Air Compressors, Motorized.

Amount: \$1,209,920.00.

Place: Office, Chief of Engineers, 1st and M Sts. NE., Washington, D. C.

This contract, entered into this 1st day of August, 1940.

Scope of this contract. The contractor shall furnish and deliver \* \* \* Compressors, air, motorized, for the consideration stated, \$1,209,920.00, in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

Changes. Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

Delays—Liquidated damages. If the contractor refuses or fails to make delivery of the materials or supplies within the time specified in Article 1, or any extension thereof, the actual damage to the Government for the delay will be impossible to determine, and in lieu thereof the contractor shall pay to the Government, as fixed, agreed, and liquidated damages for each calendar day of delay in making delivery, the amount as set forth in the specifications or accompanying papers, and the contractor and his sureties shall be liable for the amount thereof.

Payments. The contractor shall be paid, upon the submission of properly

certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the Procurement Authorities shown herein, the available balances of which are sufficient to cover cost of same.

Engineer Service Army, 1940-41.  
Eng. 30 P 3-3030 A 0905-01.

NEAL H. MCKAY,  
*Major, Quartermaster Corps,*  
*Assistant to the Director of*  
*Purchases and Contracts.*

[F. R. Doc. 40-5133; Filed, November 26, 1940;  
4:15 p. m.]

[Contract No. W 6203 qm-74, O. I. No. 15-41]

**SUMMARY OF COST-PLUS-A-FIXED-FEE  
ARCHITECT-ENGINEER SERVICES**

ARCHITECT-ENGINEER: HEADMAN, FERGUSON & CAROLLO, 319 HOMEBUILDERS BUILDING, PHOENIX, ARIZONA.

Amount fixed fee: \$14,580.

Estimated cost of construction project: \$1,125,766.

Type of construction project: Construction of a complete cantonment camp, including necessary buildings, temporary structures, utilities and appurtenances.

Location: Fort Huachuca, Arizona.

Type of service: Architect-Engineering.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to, Procurement Authority No. QM 7616 P1-3211 A 0540.068-N the available balance of which is sufficient to cover the cost of same.

This Contract, entered into this 25th day of October 1940.

*Description of the work.* The Architect-Engineer shall perform all the necessary services provided under this contract for the following described project: Construction of a cantonment camp, at Fort Huachuca, Arizona, and estimated to cost \$1,125,766.

*Data to be furnished by the Government.* The Government shall furnish the Architect-Engineer available schedules of preliminary data, layout sketches, and other information respecting sites, topography, soil conditions, outside utilities and equipment as may be essential for the preparation of preliminary

sketches and the development of final drawings and specifications.

*Fixed-fee and reimbursement of expenditures.* In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following: A fixed fee in the amount of Fourteen Thousand Five Hundred Eighty Dollars (\$14,580).

The actual cost of expenditures made by the Architect-Engineer under the provisions of Article IV and Article VII of this contract, subject to the provisions of paragraph 1 b (2) above.

Payments shall be made on vouchers approved by the Contracting Officer on standard forms, as soon as practicable after the submission of statements, with original certified payrolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data and the amount of the Architect-Engineer's fixed fee earned.

All drawings, specifications, and blue prints are to become the property of the Government on completion of payments.

*Changes in scope of project.* The Contracting Officer may at any time, by a written order, make changes in the scope of the work contemplated by this contract.

*Termination for cause or for convenience of the Government.* The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following laws:

Public No. 309, 76th Congress, approved August 7, 1939.

Public No. 703, 76th Congress, approved July 2, 1940.

Public Resolution No. 99, 76th Congress, approved September 24, 1940.

NEAL H. MCKAY,  
*Major, Quartermaster Corps,*  
*Assistant to the Director of*  
*Purchases and Contracts.*

[F. R. Doc. 40-5134; Filed, November 26, 1940;  
4:15 p. m.]

[Contract No. W 6203 qm-75, O. I. No. 16-41]

**SUMMARY OF COST-PLUS-A-FIXED-FEE  
CONSTRUCTION CONTRACT**

CONTRACTOR: DEL E. WEBB CONSTRUCTION COMPANY AND WHITE AND MILLER CONTRACTORS, INCORPORATED, 1633 WEST JEFFERSON STREET, P. O. BOX 4066, PHOENIX, ARIZONA, AND P. O. BOX 2350, TUCSON, ARIZONA, RESPECTIVELY

Fixed-fee: \$55,240.00.

Contract for: Construction of a complete cantonment camp including necessary buildings, temporary structures, utilities and appurtenances thereto.

Place: Fort Huachuca, Arizona.

Estimated cost of project: \$1,070,526.00.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following procurement authorities, the available balances of which are sufficient to cover the cost of the same: QM 7617 P1-3211 A 0540.068-N.

This contract, entered into this 30th day of October 1940.

*Statement of work.* The Contractor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the completion of the following work: Construction of a cantonment camp at Fort Huachuca, Arizona.

It is estimated that the total cost of the construction work covered by this contract will be approximately one million, seventy thousand, five hundred twenty-six dollars (\$1,070,526.00), exclusive of the Contractor's fee.

In consideration for his undertaking under this contract the Contractor shall receive the following:

(a) Reimbursement for expenditures as provided in article II.

(b) Rental for Contractor's equipment as provided in article II.

(c) A fixed fee in the amount of fifty-five thousand, two hundred forty dollars (\$55,240.00), which shall constitute complete compensation for the Contractor's services, including profit and all general overhead expenses.

The Contracting Officer may, at any time, by a written order and without notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

The title to all work, completed or in the course of construction, shall be in the Government. Likewise, upon delivery at the site of the work or at an approved storage site and upon inspection and acceptance in writing by the Contracting Officer, title to all materials, tools, machinery, equipment and supplies, for which the Contractor shall be entitled to be reimbursed under article II, shall vest in the Government.

*Payments.*

*Reimbursement for cost.* The Government will currently reimburse the Contractor for expenditures made in accordance with article II upon certification to and verification by the Contracting Officer of the original signed pay rolls for labor, the original paid invoices for materials, or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

*Rental for contractor's equipment.* Rental as provided in article II for such construction plant or parts thereof as the

Contractor may own and furnish shall be paid monthly upon presentation of proper vouchers.

*Payment of the fixed-fee.* The fixed-fee prescribed in article I shall be compensation in full for the services of the Contractor, including profit and all general overhead expenses. Ninety percent (90%) of said fixed-fee shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer. Upon completion of the work and its final acceptance, any unpaid balance of the fee shall be paid to the Contractor.

*Termination of contract by Government.* Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

This contract is authorized by the following law: Public, No. 703—76th Congress, approved July 2, 1940.

NEAL H. MCKAY,  
Major, Quartermaster Corps,  
Assistant to the Director  
Purchases and Contracts.

[F. R. Doc. 40-5132; Filed, November 26, 1940;  
4:15 p. m.]

[Contract No. W 535 ac-15944 (3759)]

#### SUMMARY OF CONTRACT FOR SUPPLIES

##### CONTRACTOR: BEECH AIRCRAFT CORPORATION

Contract for \* \* \* AT-7A Airplanes, \* \* \* AT-11 Airplanes, Spare Parts and Data, Amount: \$13,115.- 138.13.

Place: Materiel Division, Air Corps, U. S. Army, Wright Field, Dayton, Ohio.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover cost of same:

AC 34 P 12-3037 A 0705-01-- \$11,964,452.18  
AC 28 P 82-3037 A 0705-01-- \$1,150,685.95

This Contract, entered into this 14th day of September 1940.

**ARTICLE 1. Scope of this contract.** The contractor shall furnish and deliver to the Government all of the airplanes, spare parts and data as set forth more particularly in Article 16 hereof, for the consideration stated not to exceed Thirteen Million One Hundred Fifteen Thousand One Hundred Thirty Eight Dollars and Thirteen Cents (\$13,115,138.13), in strict accordance with the specifications, schedules and drawings, all of which are made a part thereof.

**ART. 2. Changes.** Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications.

**ART. 5. Delays—Damages.** If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

**ART. 8. Payments.** The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

**ART. 16. Articles and supplies called for and payment therefor.** The contractor shall furnish and deliver to the Government all of the following airplanes, spare parts and data at the prices hereinbelow indicated:

Item 1. * * * Airplanes, Advance Trainer (Transition), total-----	\$4,492,316.18
Item 2. Certain spare parts for all of the airplanes called for under the terms of Item 1 of this Article at a total price not exceeding-----	404,308.45
Item 3. * * * Direct Reading Dark Brown Negatives-----	No cost
Item 4. * * * Weight Data covering the airplanes called for under the terms of Item 1 hereof-----	No cost
Item 5. * * * Airplanes, Advanced Training, Twin Engine, (Bombardment Training), total-----	7,463,775.00
Item 6. Certain spare parts for all of the airplanes called for under the terms of Item 5 at a total price not exceeding-----	746,377.50
Item 7. * * * Direct Reading Dark Brown Negatives, total not to exceed-----	3,000.00
Item 8. * * * Handbook of Instructions at a cost of-----	2,300.00
Item 9. * * * Bill of material covering the airplanes called for under the terms of Item 5 at a cost of not to exceed-----	2,500.00
Item 10. * * * stress analysis and weight data covering the airplanes called for under Item 5 at a cost of-----	525.00
Item 11. * * * Photographic negatives and proof prints covering the airplanes called for under the terms of Item 5, total not to exceed-----	36.00

Partial payments will be made as the work progresses at the end of each cal-

endar month or as soon thereafter as practicable on authenticated statements of expenditures of the Contractor approved by the Contracting Officer.

The Government shall furnish to the Contractor for installation in the airplanes called for under the terms of this contract all materials, equipment and supplies listed in Contractor's Detailed Specification Reports Nos. 34 and 36, hereinbefore referred to, and elsewhere listed in this contract as being furnished by the Government.

**ART. 23. Advance payments.** Advance payments may be made from time to time for the supplies called for, when the Secretary of War deems such action necessary in the interest of the National Defense: *Provided, however,* That the total amount of money so advanced shall not exceed 30 percentum of the contract price of the articles called for.

**ART. 24. Option.** The Government is granted the right and option at any time within \* \* \* months after date of approval of this contract to increase the total number of airplanes called for under the terms of either or both Item 1 or Item 5 of Article 16 hereof by any amount not exceeding \* \* \* in each case, and to increase the total quantity of the spare parts called for under the terms of either Item 2 or Item 6 of Article 16 hereof by any amount not exceeding \* \* \* of the total money value of additional airplanes which may be purchased under the terms of this Article. In the event of the exercise of this option, unit prices, delivery schedules and conditions governing the purchase of such additional airplanes and spare parts shall be negotiated by the parties hereto at the time of the exercise of such option.

**ART. 25. Plant facilities contingency.** It is understood and agreed that certain plant facilities in addition to those now available to the Contractor will be required by the Contractor to enable him to comply with the delivery schedules contained in this contract. If an agreement satisfactory to the Contractor, providing for the construction or acquisition of such facilities, is not entered into and, if required, approved on or before \* \* \* then and in such event negotiations shall, at the written request of the Contractor delivered to the Contracting Officer, be entered into by and between the Contractor and the Contracting Officer for the amendment of such delivery schedules. If no agreement on such amendment be reached within \* \* \* days from the date of delivery of such request, then the Contractor shall have the right, at any time thereafter and prior to the execution and approval, if required, of an agreement providing for the facilities required as hereinbefore stated, to demand in writing of the Contracting Officer that the Government terminate this contract upon the terms and conditions stated in Article 26 hereof, and the Government agrees in such event to so terminate.

**ART. 25a. Price adjustment.** The contract prices stated in this contract for all

airplanes and spare parts are subject to adjustments for changes in labor costs.

It is expressly agreed that quotas for labor will not be altered on account of delays in the completion of the articles.

*ART. 26. Termination when contractor not in default.* If, in the opinion of the Contracting Officer upon the approval of The Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the Contracting Officer to the contractor.

It is expressly understood and agreed by both parties hereto that the contractor hereby agrees:

To pay into the Treasury profit, as hereinafter provided shall be determined by the Treasury Department, in excess of 12 per centum of the total contract prices, of such contracts within the scope of the law as are completed by the particular contracting party within the income taxable year.

This contract authorized under the provisions of section 1 (a), Act of July 2, 1940.

L. M. JOHNSON,  
Captain, C. W. S.,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 40-5135; Filed, November 27, 1940;  
10:02 a. m.]

#### DEPARTMENT OF THE INTERIOR.

##### Bituminous Coal Division.

[Dockets Nos. A-138, A-139, A-140, A-142, A-143, A-144, A-148, A-149, A-155, A-156, A-157, A-167, A-168, A-169, A-176, A-187, A-197, A-198, A-199, A-200, A-201, A-202, A-203, A-204, A-231, A-232, A-234, A-235, A-236, A-237, A-238, A-255, A-269, A-270, A-271, A-320, A-321, A-322, A-323, A-324, A-325, A-326, A-327, A-328, A-329, A-334]

PETITIONS OF DISTRICT BOARD 3 AND CERTAIN INDIVIDUAL CODE MEMBER PRODUCERS IN DISTRICT NO. 3 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 3 NOT HERETOFORE CLASSIFIED AND PRICED

ORDER OF CONSOLIDATION, NOTICE OF AND ORDER FOR HEARING, AND ORDER GRANTING TEMPORARY RELIEF

Original petitions, pursuant to section 4 II (d) of the Bituminous Coal Act of

No. 231—2

1937 having been duly filed with this Division by various parties<sup>1</sup>; and

It appearing that the above-entitled matters raise analogous issues;

*It is ordered.* That the above-entitled matters be consolidated.

*It is further ordered.* That a hearing in the above-entitled matters be held, under the applicable provisions of the Act and the rules and regulations of the Division, on December 2, 1940, at 10 o'clock a. m. (eastern standard time) at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW, Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room in which such hearing will be held.

*It is further ordered.* That Edward J. Hayes or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become parties herein. Any person desiring to be ad-

<sup>1</sup> These parties, in an order corresponding to the order of the Docket Numbers assigned to their respective petitions, as set forth above, are as follows: Philip Mangino, Wm. E. Smith, Frank J. Loss, Terry L. Miller, Wm. L. Lanham, Dee Parker, Pearl Toothman, Lynch & Marks, O. C. Myers, Charles R. Davis, Melvin Decker, W. M. Shaffer, W. S. Mayle, C. W. Forman, Goff Richards, District Board 3, Ellis Berg, W. C. Larew, Homer Yates, Leroy Dalton, Charlie Groves, J. P. Thompson, Waitman T. Lyons, Charlie E. Jones, John H. Quinn, Tioga Coal Corporation, Fred W. Casteel, Jacob E. Haun, Thomas West, Obed Dalton, Carl Smith, Jr., District Board 3, A. Cerullo, Tony Syslo, Harold H. Lemley, James Michael, Albert Zoefel and W. A. Newhouse, Thurman Ketcham, W. T. Lyons, Virgil E. Armstrong, G. B. Ervin, M. F. Johnson, W & M Coal Co., Arlie Cleon Brand, Howard Miller and District Board 3.

mitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Any petitioner desiring a separate hearing on any of the petitions herein consolidated may file a motion for such separate hearing, setting forth the facts relied upon to show the necessity therefor. Such petitions of intervention and motion for separate hearings shall be filed with the Bituminous Coal Division on or before November 26, 1940.

The matter concerned herewith is in regard to the establishment of effective minimum prices for the coals of certain mines, hereinafter named, located in District No. 3, for which coals price classifications and minimum prices have not heretofore been established.

All persons are hereby notified that the hearing in the above-entitled matters and any orders therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment of the original petition, petitions of intervenors, or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of said original petition.

*It is further ordered.* That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matters, temporary relief be, and it hereby is, granted as follows: Commencing forthwith, the coals referred to in the schedules marked "Temporary Supplement A-R" and "Temporary Supplement A-T" annexed hereto and made part hereof, shall be subject to minimum prices as provided in said schedules.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division and proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 18, 1940.

[SEAL]

H. A. GRAY,  
Director.

## FEDERAL REGISTER, Thursday, November 28, 1940

## TEMPORARY SUPPLEMENT A-R—TEMPORARY EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 3

## FOR ALL SHIPMENTS EXCEPT TRUCK

Note: The material contained in this Temporary Supplement A-R is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Price Schedule No. 1 for this District and Supplement thereto.

## Alphabetical Listing of Code Members Having Railway Loading Facilities, Showing Price Classification by Size Group Numbers

Mine Index No.	Code member	Mine name	Seam	Size group Nos.															
				Freight origin group No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
798	Berg, Ellis	Berg		60	F	F	F	F	H	F	F	F	F	F	F	F	A	A	A
522	Blake Coal Co., P. L. & G. L. (G. L. Blake)	Blake		10	A	G	C	G	A	A	A	A	G	C					
170	Caststeel, Fred W.	Caststeel		70	P	P	P	P	P	P	P	P	P	P	P	P			
181	Crane, Mack	Crane		61	P	P	P	P	P	P	P	P	P	P	P	P			
699	Davis, Charles R.	Davis		61	P	P	P	P	P	P	P	P	P	P	P	P			
178	Edmond, W. R.	Fishing Camp		31	P	P	P	P	P	P	P	P	P	P	P	P			
174	Green, Wm. H. (Virgle Coal)	Salzer		32	P	P	P	P	P	P	P	P	P	P	P	P			
928	Hale & Rodeheaver (R. J. Hale)	Davis Fork		61	P	P	P	P	P	P	P	P	P	P	P	P			
634	Huffman, H. B.	White Hall #1		61	P	P	P	P	P	P	P	P	P	P	P	P			
172	H. F. Fuso Coal Corp.	Baconn		70	G	G	G	G	G	G	G	G	G	G	G	G			
182	Johnson Coal Co. (M. T. Johnson)	Courtney		32	J	J	J	J	J	J	J	J	J	J	J	J			
180	Larew, W. C.	Faulkner		33	A	A	A	A	A	A	A	A	A	A	A	A			
969	Oliverio, Tony	Heavener #2		60	P	P	P	P	P	P	P	P	P	P	P	P			
934	Pyles, Louis P.	Vincent		61	F	F	F	F	F	F	F	F	F	F	F	F			
177	Quinn, John H.	Quinn		60	G	G	G	G	G	G	G	G	G	G	G	G			
976	Semish, Mike, Jr.	Scandin		61	F	F	F	F	F	F	F	F	F	F	F	F			
910	Shaffer, R. S.	Shaffer		61	F	F	F	F	F	F	F	F	F	F	F	F			
945	Shavers Mountain Coal Co.	Coberly		33	A	A	A	A	A	A	A	A	A	A	A	A			
641	Stevens, O. W. & Son	Beach Hill		61	P	P	P	P	P	P	P	P	P	P	P	P			
948	Stoney Ridge Coal Co. (C. I. Borgman)	Stoney Ridge		72	J	J	J	J	J	J	J	J	J	J	J	J			
812	Tunn, Fred	Janes		61	F	F	F	F	F	F	F	F	F	F	F	F			
173	Toga Coal Corporation, c/o Thos. F. Rees	Toga No. 1		11	D	D	D	D	D	D	D	D	D	D	D	D			
937	Tripplett, Mike	Delphi		61	DE	DF													
185	Wernick, Carter R.	Salwell		61	F	F	F	F	F	F	F	F	F	F	F	F			

Note: For railroad fuel prices add these mine index numbers to the respective groups set forth in Price Schedule No. 1, 174, 177, 181, 182-A, 185, 634, 812, 937, 910, 928, 941, 945, 948, 960, 975, 999; Group No. 2-178-798; Group No. 3-945; Group No. 5-173, 180, 522, 945; Group No. 6-172, 179. The letter "A" following Mine Index

Section reading "Freight Origin Group No. 10" should be changed to read as follows:

From: Freight Origin Group Nos. 10 and 11.

Classification:

A-----

D-----

Section reading "Freight Origin Group No. 10" should be changed to read as follows:

From: Freight Origin Group Nos. 10 and 11.

Classification:

A-----

D-----

**FEDERAL REGISTER, Thursday, November 28, 1940**

4683

**TEMPORARY SUPPLEMENT A-T-TEMPORARY EFFECTIVE MINIMUM PRICES FOR DISTRICT  
No. 3**

FOR TURCK SPACERS

**NOTE:** The material contained in this Temporary Supplement A-T is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Price Schedule No. 1 for Districts and Supplements thereto.

### **Prices in Cents per Net Ton for Shipment Into All Market Areas**

Code member index	Mine index No.	Mine	Seam	County	Size groups						
					1	2	3	4	5	6	7
					Lump over 2", Bottom Size over 2", Bottom Size	Lump 2", & under, Edge over 2", Bottom Size	Lump 2", & under, Edge over 2", Bottom Size	All Nut under, Bottom Size	Run of Mine, 2" under,	Result- ant over 2", A	2", A
					1009 Laurel Run.....	H. V. Kitt.....	225	225	200	190	180
					1017 Fisher.....	Redstone.....	228	218	193	183	178
					964 No. 1.....	Pittsburgh.....	223	218	193	183	178
					994 Homer.....	Elk Lick.....	223	218	193	183	178
					992 Blake.....	Sewell.....	233	248	218	193	178
					1053 Nutter #2.....	H. V. Prent.....	223	218	193	183	178
					1100 Brand.....	Waynesburg.....	203	198	188	178	153
					1016 A. V. Post.....	Bedstone.....	223	218	193	183	178
					1010 Burdiss.....	Pittsburgh.....	223	218	193	183	178
					1021 Burdiss (Wm. B.).....	Bakerstown.....	234	225	210	210	190
					17 Castle.....	Pittsburgh.....	223	218	193	183	178
					1022 Diamond #2.....	Pittsburgh.....	223	218	193	183	178
					1012 Cerillo.....	Pittsburgh.....	223	218	193	183	178
					932 Chisler.....	Waynesburg.....	203	198	188	178	153
					933 Charles O. Chisler.....	Monongalia.....	203	198	188	178	153
					930 Martin.....	Sawickley.....	253	248	232	213	203
					930 Big Turn.....	Sewell.....	253	248	232	213	203
					1067 Cochran, Bob. F.....	Webster.....	235	235	210	200	190
					1101 Maplewood.....	Preston.....	223	218	193	183	178
					181 Crane.....	Pittsburgh.....	223	218	193	183	178
					1077 Schubback.....	Maston.....	223	218	193	183	178
					1060 Dalton.....	Pittsburgh.....	223	218	193	183	178
					1023 Dalton, Obed.....	Taylor.....	223	218	193	183	178
					1060 Davis, Charles R.....	Pittsburgh.....	223	218	193	183	178
					1060 Davis & Briggs (French Davis).....	Pittsburgh.....	223	218	193	183	178
					955 Ringer.....	No. 2 Gas.....	248	228	223	213	203
					1023 Dill.....	Bakerstown.....	233	248	223	213	203
					1023 Dill J. P.....	Upshur.....	235	235	210	200	190
					1019 Duncan, I. H.....	Preston.....	223	218	193	183	178
					175 Edmond, W. R.....	Redstone.....	223	218	193	183	178
					1079 Ferguson, Fred.....	Upshur.....	223	218	193	183	178
					1104 Ferguson Bros. Com- pany.....	Fish Camp.....	223	218	193	183	178
					1104 Forman, C. W.....	Ervin.....	223	218	193	183	178
					1079 Foster, Nathan (Foster Coal Co.).....	Duffield.....	223	218	193	183	178
					931 Stout #2.....	Pittsburgh.....	223	218	193	183	178
					1096 Gardner, Charles.....	H. V. Prent.....	203	198	188	178	153
					1096 Gardner, H. L.....	Redstone.....	223	218	193	183	178
					1096 Gardner, Wm. H. (Virg. Coal).....	Upshur.....	248	238	223	213	203
					1014 Gross, W. R. & Kenns. Co.....	Harrison.....	223	218	193	183	178
					1102 Gross.....	Braxton.....	223	218	193	183	178
					959 Rot.....	Sawickley.....	203	198	188	178	153
					1096 Fredrick.....	Pittsburgh.....	223	218	193	183	178
					1096 Gardner.....	Marion.....	223	218	193	183	178
					1096 Salter.....	Webster.....	223	218	193	183	178
					1096 Salter.....	No. 5 Block.....	248	238	223	213	203
					1096 Salter.....	Pittsburgh.....	223	218	193	183	178
					1096 Salter.....	Brownsville.....	223	218	193	183	178
					1096 Salter.....	Clayton.....	223	218	193	183	178
					1096 Salter.....	Hamilton.....	223	218	193	183	178
					1096 Salter.....	Braxton.....	223	218	193	183	178
					1096 Salter.....	Braxton.....	203	198	188	178	153

*Prices in Cents per Net Ton for Shipment Into All Market Areas—Continued*

Code member index	Mine	County	Seam	Mine index No.	Size groups						
					1	2	3	4	5	6	7
Heinrich, Wm.	Hamrick	Pittsburgh	Mononella	223	218	218	193	193	178	168	168
Harbert, Wayne S.	Harbert	Pittsburgh	Harrison	223	218	218	163	193	178	168	168
Harvey, J. Roy	Coyer	Upshur	Upshur	223	218	218	163	183	178	168	168
Harvey & Ward (George Harvey)	Harvey	Redstone	Redstone	223	218	218	163	183	178	168	168
Haun, J. E.	Morgan (Sl. Dp.)	Pittsburgh	Lewis	223	218	218	163	193	178	168	168
Hess, J. J.	Sanders #2	Sewickley	Mononella	203	198	198	178	178	163	153	153
Hess, Walter	Hines	No. 6 Block	Monongalia	203	198	198	178	178	163	153	153
Hines, H. J.	Gillespie	Clairton	Webster	248	238	238	203	203	182	173	173
Hollandsworth and Boyce, D. H.	Hoye	Waynesburg	Braxton	223	218	218	163	193	178	168	168
Huckins, Regn B.	Huckins	Pittsburgh	Marion	203	198	198	178	178	163	153	153
Huckins, Glen	Hellman	H. V. Kitt.	Harrison	223	218	218	163	193	178	168	168
Hy-Fuse Coal Corpora- tive Co. E. E. Macon-	Bacocon	Bakerstown	Upshur	203	203	203	203	203	178	168	168
J. T. Johnson Coal Co. (M.	Courtney	Redstone	Preston	235	235	235	210	210	200	190	190
Jones, Charlie E.	Manley	Waynesburg	Monongalia	203	198	198	178	178	163	153	153
Jones, Charlie E.	H. Givens	Sewickley	Marion	203	198	198	178	178	163	153	153
Kochanek, Thurman	Taylor	Pittsburgh	Webster	253	248	248	228	228	213	203	203
Kinty, Fred	Kinty	Barbour	Marion	223	218	218	163	193	178	168	168
Lanham, W. L.	Lanham	Pittsburgh	Monongalia	223	218	218	163	193	178	168	168
Leaven, W. C.	Faulkner	Monongalia	Randolph	223	218	218	163	193	178	168	168
Leaven, Harmon H.	Leaven	Pittsburgh	H. V. Kitt.	223	218	218	163	193	178	168	168
Light, Coal Co. (Sterile Light)	Light	Upshur	Upshur	203	203	203	178	178	168	158	158
Lilier, Carlton	H. V. Kitt.	Upshur	Redstone	203	203	203	178	178	168	158	158
Lloyd, O. J.	Burnett	Pittsburgh	Braxton	223	218	218	163	193	178	168	168
Loss, Frank J.	Loss	Sewickley	Marion	203	198	198	163	193	178	168	168
Lynch & Marks (Peter Lynch)	Arth h u r Marks	Pittsburgh	Gillmer	223	218	218	163	193	178	168	168
Lyons, W. T.	Lyons	Monongalia	Redstone	223	218	218	163	193	178	168	168
Malcolm, J. C.	Hess	Pittsburgh	Upshur	223	218	218	163	193	178	168	168
Mangino, Philip	Consol. #3 (3 1 a t e Dump)	Redstone	Marion	223	218	218	163	193	178	168	168
Mayle, Wallace H.	Harvey	Pittsburgh	Taylor	223	218	218	163	193	178	168	168
McCartney, Spence McDonald, Frank H.	Wolfe	Pittsburgh	Monongalia	223	218	218	163	193	178	168	168
McCray, Robert	Metray	Elk Lick	Lewis	223	218	218	163	193	178	168	168
McDonald, Frank H.	McDonald	Pittsburgh	Harrison	223	218	218	163	193	178	168	168
McGregor, Junior	Miller	Tom Run	E. Lick	207	198	198	163	193	178	168	168
McGregor, James	Miller	Pittsburgh	Pittsburgh	203	218	218	163	193	178	168	168
Miller, H. P. (Miller Coal Co.)	Miller	Miller	M. V. Frept.	223	225	225	200	200	190	180	180
Miller, Howard	Miller	Buttermilk	Preston	223	225	225	200	200	190	180	180
Miller, T. L.	Miller	Gregory	Pittsburgh	223	218	218	163	193	178	168	168
Millier, L. V.	Millier	Moholian	Coalgrove	248	248	248	223	223	213	203	203
Mollohan, Roy	Mollohan	Pittsburgh	Nicholas	248	248	248	223	223	213	203	203
Morgan, Joe	Morgan	Pittsburgh	Marion	223	218	218	163	193	178	168	168
Mayers, O. C.	(S l a t e Dunn)	Pittsburgh	Harrison	223	218	218	163	193	178	168	168
McIntyre, Charles R.	Martin Bros.	Pittsburgh	Harrison	223	218	218	163	193	178	168	168
Neal, J. A.	Delphia	Ours	Nicholas	248	248	248	223	223	213	203	203
Neals & Mason	Lynch	Upshur	H. V. Kitt	203	203	203	178	178	168	158	158
Parker, McCord, Jones & Carr (De Parker)	Lynch	Pittsburgh	Monongalia	248	248	248	223	223	213	203	203
Peterson, Ray	Baker	Pittsburgh	Brenton	223	218	218	163	193	178	168	168

Prices in Cents per Net Ton for Shipment Into All Market Areas—Continued

Code member index	Mine index No.	Mine	Seam	County	Size groups						
					1	2	3	4	5	6	7
Phillips & Furman (A. W. Furman)	981	Ross Wade	Waynesburg	Monongalia	203	198	198	178	178	163	153
Pumphrey, G. T.	1054	Pumphrey	Redstone	Upshur	223	218	218	193	183	178	168
Pyles, Louis P.	954	Vincent	Pittsburgh	Harrison	223	218	218	193	193	178	168
Quinn, John H.	177	Quinn	Pittsburgh	Harrison	223	218	218	193	193	178	168
Reed Bros. Coal Co. (M. D. Reed)	960	Freeman	Pittsburgh	Harrison	223	218	218	193	193	178	168
Richards, Goff	975	Consol. #32 Slatte Dump	Pittsburgh	Harrison	223	218	218	193	193	178	168
Ridenour, John	978	Wolf	M. V. Freept	Preston	225	225	225	200	200	190	180
Riddle, Wayne	1082	Riddle	Pittsburgh	Harrison	223	218	218	193	193	178	168
Roberts & Calhoun Coal Co.	990	Shriver	Redstone	Upshur	223	218	218	193	183	178	168
Rowan, D. H. & Sons	933	Rowan #2	Redstone	Barbour	223	218	218	193	183	178	168
Rutherford & Bright (Earl Rutherford)	984	Waldo #1	Pittsburgh	Harrison	223	218	218	193	193	178	168
Scorish, Mike, Jr.	976	Scorish	Pittsburgh	Harrison	223	218	218	193	193	178	168
Shafer, Frank	1098	Forker	Bakerstown	Preston	235	235	235	210	210	200	190
Shaffer & Austin (W.M. Shaffer)	973	Shaffer	Sewickley	Monongalia	203	198	198	178	178	163	153
Shaffer, John	982	Sunshine	Bakerstown	Preston	235	235	235	210	210	200	190
Shahan Bros. Coal Co. (J. S. Shahan)	1015	Shahan	M. V. Freept	Preston	225	225	225	200	200	190	180
Shavers Mountain Coal Co.	945	Coberly	Sewell	Randolph	253	248	248	223	223	213	203
Short, Herman	985	Short	Pittsburgh	Harrison	223	218	218	193	193	178	168
Shreve, Sam	963	Cutright	H. V. Kitt	Upshur	203	203	203	178	178	168	158
Simmons & Wayne Coal Co. (French Simmons)	1018	Philips	Pittsburgh	Braxton	223	218	218	193	193	178	168
Smith, Carl, Jr.	1040	Smith	Redstone	Harrison	223	218	218	193	183	178	168
Smith, Charley	995	Smith	Elk Lick	Lewis	223	218	218	193	183	178	168
Smith, Late C.	1056	Smith	Redstone	Harrison	223	218	218	193	183	178	168
Smith, Wm. E.	1026	Consol. #93 Slatte Dump	Pittsburgh	Marion	223	218	218	193	193	178	168
Stalnaker, Frank	934	Farnsworth	Pittsburgh	Gilmer	223	218	218	193	193	178	168
Stark, William	1013	Wm. Stark	Pittsburgh	Harrison	223	218	218	193	193	178	168
Stevens, O. W., & Sons (O. W. Stevens)	941	Beech Hill	Pittsburgh	Harrison	223	218	218	193	193	178	168
Stoney Ridge Coal Co. (C. I. Borgman)	948	Stoney Ridge	M. V. Freept	Preston	225	225	225	200	200	190	180
Syslo, Tony	1066	Higginbottom	Pittsburgh	Harrison	223	218	218	193	193	178	168
Talkington, Charles R.	1049	Jamison #9 Slatte Dump	Pittsburgh	Marion	223	218	218	193	193	178	168
Teverbaugh Coal Co. (Henry Thobois)	1078	H & W	Sewickley	Marion	203	198	198	178	178	163	153
Thompson, J. P.	1005	Consol. #25 Slatte Dump	Pittsburgh	Harrison	223	218	218	193	193	178	168
Thorne, Curtis	1083	Boggess	Sewickley L. Kilton	Marion	203	198	198	178	178	163	153
Tioga Coal Corporation, e/o Thos. F. Rees	173	Tioga No. 1	#5 Block	Nicholas	248	238	238	203	203	183	173
Tomer, J. D.	974	Consol. #86 Slatte Dump	Pittsburgh	Marion	223	218	218	193	193	178	168
Toothman, Pearl	998	Jamison #8 Slatte Dump	Pittsburgh	Marion	223	218	218	193	193	178	168
Tracy, Virgil M. & Cool, Jr. (Virgil M. Tracy)	950	H a n o c k Bank	Sewell	Webster	253	248	248	223	223	213	203
Trembly, Harry	972	Trembly	Pittsburgh	Gilmer	223	218	218	193	193	178	168
Urtso Bros. (John Urtso, Jr.)	949	Urtso Bros.	Pittsburgh	Taylor	223	218	218	193	193	178	168
W. & M. Coal Co.	1084	McKinley	M. V. Freept	Preston	225	225	225	200	200	190	180
Walters, I. J.	989	Haring	Waynesburg	Monongahela	203	198	198	178	178	163	153
Wamsley, Leonard	1051	Wamsley	H. V. Kitt	Upshur	203	203	203	178	178	168	158
Warnick, Carmer R.	185	Saltwell	Pittsburgh	Harrison	223	218	218	193	193	178	168
Watson, R. A.	1060	Watson	Pittsburgh	Harrison	223	218	218	193	193	178	168
Wiles, Okey L.	1103	Fairfax #2	Bakerstown	Preston	235	235	235	210	210	200	190
Williams, C. Ray	958	Williams	Pittsburgh	Monongahela	223	218	218	193	193	178	168
Winemiller, N. P.	1027	Bailey	Redstone	Lewis	223	218	218	193	183	178	168
Wise, J. A.	1088	Wise #1	Pittsburgh	Harrison	223	218	218	193	193	178	168
West, Thomas	1001	Vincent	Pittsburgh	Marion	223	218	218	193	193	178	168
Wood, L. E.	988	Wood	Pittsburgh	Braxton	223	218	218	193	193	178	168
Yates, Homer	1010	Yates	Pittsburgh	Taylor	223	218	218	193	193	178	168
Yates, Homer	1011	Homer	Pittsburgh	Taylor	223	218	218	193	193	178	168
Young & Sons, Thomas (Sidney J. Young)	1062	Young	No. 5 Block	Nicholas	253	248	248	223	223	213	203
Zickefoose, Minter J.	1050	Gladwell	H. V. Kitt	Upshur	203	203	203	178	178	168	158
Zoeffel & Newhouse Coal Co.	1057	Coatlon	H. V. Kitt	Randolph	203	203	203	178	178	168	158

[F. R. Doc. 40-5123; Filed, November 26, 1940; 11:25 a. m.]

[Docket Nos. A-40, A-41]

PETITION OF THE OHIO AND PENNSYLVANIA COAL COMPANY, A PRODUCER IN DISTRICT 4, FOR A REDUCTION IN CERTAIN EFFECTIVE MINIMUM PRICES FOR SCREENINGS; PETITION OF THE POWHATAN MINING COMPANY, A PRODUCER IN DISTRICT 4, FOR A REDUCTION IN CERTAIN EFFECTIVE MINIMUM PRICES FOR SCREENINGS

ORDER OF THE DIRECTOR DENYING PRAYERS FOR RELIEF

Appropriate proceedings having been duly instituted, held, and concluded pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 and to the rules and regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to that section; and

A hearing having been held before the Director at a hearing room of the Bituminous Coal Division at 734 Fifteenth Street NW., Washington, D. C., commencing on November 14, 1940, and terminating on November 19, 1940; and

The Director having made findings of fact and conclusions of law in this matter, dated November 23, 1940, which are filed herewith:

*It is ordered*, That the prayers for relief in the original petitions of the Ohio and Pennsylvania Coal Company and of the Powhatan Mining Company filed with the Division on September 27, 1940, and in the intervening petition of the Lorain Coal and Dock Company filed with the Division on October 11, 1940, as amended, are and each of them is, denied.

Dated: November 23, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5153; Filed, November 27, 1940;  
11:01 a. m.]

[Docket No. A-383]

PETITION OF DISTRICT BOARD 11 FOR ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS OF THE CHINOOK MINE OF AYRSHIRE PATOKA COLLIERIES CORPORATION, NOT HERETOFORE CLASSIFIED AND PRICED

NOTICE OF AND ORDER FOR HEARING ON TEMPORARY AND PERMANENT RELIEF

A petition requesting temporary and permanent relief having been duly filed with this Division by the above-named party, pursuant to the Bituminous Coal Act of 1937;

*It is ordered*, That a hearing on the prayers for temporary and permanent relief in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on December 11, 1940, at 10 o'clock in the forenoon of that day, at a hearing room

of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

*It is further ordered,* That Thurlow G. Lewis or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law: *Provided, however,* That the prayer for temporary relief shall be reserved within the jurisdiction of the Director; for such action as may be deemed appropriate, at any time during the course of the proceedings in the above-entitled matter.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 5, 1940.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to a petition of District Board 11 praying for the establishment of price classifications and minimum prices for the coals of Chinook Mine of the Ayrshire Patoka Collieries Corporation which have not heretofore been classified and priced.

Dated: November 25, 1940.

[SEAL] H. A. GRAY,  
Director.

[F. R. Doc. 40-5155; Filed, November 27, 1940;  
11:01 a. m.]

Docket Nos. A-111, A-134, A-159, A-224, A-225, A-229, A-165, A-192]

PETITIONS OF DISTRICT BOARD 8 FOR RECLASSIFICATION OF THE AMERICAN ROLLING MILL COMPANY AND OF PRUDEN COAL AND COKE COMPANY; FOR CHANGE IN CLASSIFICATION OF WEST VIRGINIA COAL AND COKE COMPANY, OF KENTUCKY CARDINAL COAL CORPORATION, OF WEBB COAL MINING COMPANY AND OF NEW LONG RIDGE COAL COMPANY, INC., AND EXCELSIOR MINING COMPANY; PETITIONS OF COLCORD COAL COMPANY FOR CHANGE IN CLASSIFICATION FOR IT'S HERNSHAW COALS, AND SPLASH DAM COAL CORPORATION FOR CHANGE IN CLASSIFICATION FOR SPLASH DAM MINE

ORDER DISMISSING PETITION SEPARATING CERTAIN OF THE CAUSES FOR HEARING AND POSTPONING THE HEARINGS THEREON

On November 19, 1940, the above petitioners convened for hearing pursuant to my Order dated November 5, 1940. At that time a representative of District Board 8 moved orally for dismissal of its petition in Docket No. A-111. There was no opposition to such motion. A written motion to this effect has also been filed.

The representative of District Board 8 also moved that the hearing on the petitions in all other dockets above named be continued to various dates because of the occupation of counsel for District Board 8 with other matters pending before the Division. The Examiner ruled that the hearing on Docket No. A-225 and Docket No. A-229 might be continued until December 19, 1940, there being no opposition to the motion in this respect. The hearing in Docket No. A-134, Docket No. A-159, and Docket No. A-224 was continued until November 25, 1940, at 10 a. m. The parties appearing had no objection to this continuance since a day certain for the hearing was named by the Examiner.

The hearing in Docket No. A-165 was continued by the Examiner to December 16, 1940, at 10 a. m. upon agreement of all parties, including counsel for petitioner Colcord Coal Company. However, counsel for Splash Dam Coal Corporation requested that the hearing in Docket No. A-192 go forward on November 19, 1940, or as soon as reasonably possible. In consideration of the convenience of the petitioner as well as District Board 8, the Examiner ruled that the hearing in Docket No. A-192 should be held on November 20, 1940, at 7:30 p. m.

*Now, therefore, it is ordered,* That the motion to dismiss the petition in Docket No. A-111 is granted and the petition is dismissed without prejudice to the filing of another motion upon recurrence of the injury complained of in the petition. The outstanding order granting temporary relief is herewith cancelled and the effective minimum prices for the Nellis Mine of the American Rolling Mill Company remain the same as those existing prior to the effective date of the temporary order.

*It is further ordered,* That the hearings in the above-entitled proceedings be held in accordance with the rulings of the Examiner, made with the consent of interested parties, upon the respective dates specified and in rooms to be designated by the Chief of the Records Section, Room 502, 734 15th Street Northwest, Washington, D. C.

In all other respects, except as the designation of an Examiner to conduct the hearings may hereafter be changed without notice, the original notice of and order for hearing in each case shall continue in full force and effect.

Dated: November 26, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5154; Filed, November 27, 1940;  
11:01 a. m.]

[Docket No. A-226]

PETITION OF Sycamore Coal Corporation, A CODE MEMBER IN DISTRICT 8, FOR RECLASSIFICATION IN SIZE GROUPS 8, 9 AND 10

NOTICE OF AND ORDER FOR HEARING AND ORDER GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

*It is ordered,* That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on December 2, 1940, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

*It is further ordered,* That Thurlow G. Lewis or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations

of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 27, 1940.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to a petition of Sycamore Coal Corporation, a code member in District 8, for a reduction in classification of coal in Size Groups 8, 9, and 10 from its Buccaneer Mine from "F" to "H" for shipment to all markets.

An informal conference regarding the temporary relief requested in the petition was held on November 1, 1940 at which were present representatives of the original petitioner, District Boards 7 and 8, Red Jacket Coal Corporation, Old Ben Coal Corporation, Pond Creek Pocahontas Coal Company, Island Creek Coal Company and Pocahontas Fuel Corporation. The granting of temporary relief was urged by the petitioner and District Board 8, and was opposed by Red Jacket Coal Corporation and District Board 7. Petitioner's statements showed that the character of its seam had recently changed and that the analytical value of its coal had declined. Petitioner further showed that it had great difficulty in selling its slack coal. Having considered the views stated at the informal conference and the statements made in the petition in this case, the Director is of the opinion that a reasonable showing of necessity of temporary relief has been made; and

*It is further ordered*, That, pending final disposition of the petition in the above entitled matter, commencing forthwith the temporary relief prayed for is granted and the classification of coal from the Buccaneer Mine of Sycamore Coal Corporation in Size Groups 8, 9, and 10, is reduced from "F" to "H".

Notice is hereby given that applications to stay, terminate, or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division and proceedings instituted pursuant to Section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 26, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5157; Filed, November 27, 1940;  
11:02 a. m.]

[Docket No. A-367]

THE WHEELING TOWNSHIP COAL MINING COMPANY, A PRODUCER IN DISTRICT 4, FOR REVISION OF PRICES AND CLASSIFICATIONS OF COAL IN SIZE GROUPS 5-7 FOR SALE IN MARKET AREAS 4, 5, 7, 9-22, 98 AND 99 AND IN SIZE GROUPS 1-8 FOR EXPORT TO CANADIAN RAILROADS IN MARKET AREAS 4, 21, 98 AND 99

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

*It is ordered*, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on December 9, 1940, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

*It is further ordered*, That Thurlow G. Lewis or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 5, 1940.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may

be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the request of the Wheeling Township Coal Mining Company for quality reclassifications of its coal in Size Groups 5, 6 and 7 for sale for industrial steam use in Market Areas 4, 5, 7, 9-22, 98 and 99, for extension of such quality reclassifications to the prices of coal sold for export to Canadian railroads in Market Areas 4, 21, 98 and 99, and for a reduction in the level of prices in Size Groups 1-8 for sale to such Canadian railroads.

Dated: November 26, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5156; Filed, November 27, 1940;  
11:01 a. m.]

[Docket No. A-128]

PETITION OF THE CORYELL COAL COMPANY FOR REVISION OF EFFECTIVE MINIMUM PRICES FOR COALS OF SIZE GROUPS 3, 9, 13, AND 17 OF THE HAYDEN VALLEY MUTUAL MINE FOR SHIPMENTS INTO MARKET AREAS 204-211 AND 218

NOTICE OF AND ORDER FOR HEARING AND GRANTING TEMPORARY RELIEF

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

*It is ordered*, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on January 15, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

*It is further ordered*, That Travis Williams or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be ad-

mitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 10, 1941.

The matter concerned herewith is in regard to the revision of the effective minimum prices for coals in size groups 3, 9, 13, and 17 of the Hayden Valley Mutual Mine (Mine Index No. 24) for shipments into Market Areas 204-211, both inclusive, and Market Area 218.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

*It is further ordered,* That a reasonable showing of the necessity therefor having been made, pending final disposition of the petition in the above-entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith the coals referred to in the supplement annexed hereto, marked "Temporary Supplement No. 5 to Price Schedule No. 1 District No. 17" and made a part hereof, shall be subject to minimum prices as provided in said Temporary Supplement No. 5.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the rules and regulations governing practice and procedure before the Bituminous Coal Division and proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 25, 1940.

[SEAL]

H. A. GRAY,  
Director.

#### TEMPORARY SUPPLEMENT NO. 5 TO PRICE SCHEDULE NO. 1 DISTRICT 17

NOTE: The material in this Supplement is to be read in the light of the instructions, exceptions and other provisions contained in Price Schedule No. 1 for this District and Supplements thereto. Effective as of November 25, 1940, and continuing until further order of the Director.

The following temporary change shall be made in Price Schedule No. 1 for District No. 17:

Minimum f. o. b. mine prices for shipment via rail transportation into Market Areas Nos. 204-211 and 218, listed for size groups Nos. 3, 9, 13 and 17 for Hayden Valley Mutual Mine (Mine Index No. 24) of Code member Frank Coryell (succeeded by Coryell Coal Company, Coryell Mine), shall be reduced as follows:

Size group 3	25
Size group 9	15
Size group 13	10
Size group 17	25

[F.R. Doc. 40-5169; Filed, November 27, 1940;  
11:43 a.m.]

[Docket No. A-181]

#### PETITION OF THE BINKLEY MINING COMPANY OF MISSOURI, A CODE MEMBER IN DISTRICT NO. 15 FOR MODIFICATION OF EFFECTIVE MINIMUM PRICES ESTABLISHED FOR COALS PRODUCED AT PETITIONER'S BEE-VEER MINE (MINE INDEX NO. 13) ON SHIPMENTS OF RAILROAD LOCOMOTIVE FUEL TO THE CHICAGO, BURLINGTON AND QUINCY RAILROAD

#### MEMORANDUM OPINION AND ORDER CONCERNING TEMPORARY RELIEF

The original petition in the above-entitled matter prays that a temporary order be issued granting the relief requested pending final disposition of the matter.

An informal conference, upon notice to interested parties, was held on November 4, 1940, pursuant to the Rules and Regulations governing practice and procedure in 4 II (d) proceedings, for the purpose of affording interested parties the opportunity of expressing their views concerning the temporary relief prayed for.

Represented at the conference were the original petitioner and the Chicago, Burlington and Quincy Railroad. There were no appearances at the informal conference in opposition to the granting of the temporary relief requested and there have been no petitions of intervention filed in this matter.

Petitioner seeks modification of the minimum prices established for the coals produced from its Bee-Veer Mine (Mine Index No. 13) on shipments of railroad locomotive fuel to the Chicago, Burlington and Quincy Railroad by reducing the minimum prices established for railroad locomotive fuel (which includes all sizes except 2" x 0) from \$2.10 per ton to \$2.05 per ton and by reducing the minimum prices established for 2" x 0 screenings from \$1.70 per ton to \$1.60 per ton.

It was represented at the informal conference that the purchase of railroad locomotive fuel by the Chicago, Burlington and Quincy Railroad from the Bee-Veer Mine would be substantially curtailed unless the heretofore existing delivered prices of \$2.05 per ton for railroad locomotive fuel (all sizes except 2" x 0) and \$1.60 per ton for 2" x 0 screenings, are continued; that the sale of such coal constitutes approximately 25% of the total sales of coal produced at petitioner's Bee-Veer Mine and if such sales were substantially curtailed or discontinued, it would adversely and seriously affect the operation of said mine; that the modifications, as requested by petitioner, of the minimum prices established for its Bee-Veer Mine on shipments to the Chicago, Burlington and Quincy Railroad more nearly will pre-

serve the relationships that have existed in the past between the coals purchased by this railroad; that unless temporary relief is granted there is imminent danger that the competitive opportunities of the petitioner will be adversely affected.

The Director has carefully considered the request for temporary relief and the views expressed at said informal conference and data submitted in connection therewith. The Director finds that petitioner has made an adequate showing of actual or impending injury in the event that temporary relief is not granted and further finds that the granting of temporary relief, as herein-after provided, will not unduly prejudice other interested persons in advance of a final hearing in the matter, and that a sufficiently clear showing has been made that petitioner is entitled to the temporary relief prayed for.

*Now, therefore, it is ordered,* That pending final disposition of the above-entitled matter, the schedule of Effective Minimum Prices for District No. 15 for all Shipments Except Truck, be and the same is hereby amended, to become effective forthwith by establishing the following exception to apply to the minimum prices established for Production Group No. 3, as set forth on Page 43 of said schedule:

Exception: On shipments to the C. B. & Q.  
R. R.:  
Railroad locomotive fuel..... \$2.05  
2" x 0..... 1.60

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations governing practice and procedure before the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 27, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F.R. Doc. 40-5165; Filed, November 27, 1940;  
11:40 a.m.]

[Docket Nos. A-365, A-366]

#### PETITIONS OF THE PITTSBURGH COAL COMPANY, A CODE MEMBER IN DISTRICT NO. 2, FOR: (1) CHANGES IN MINIMUM PRICES ESTABLISHED FOR THE COALS OF ITS CHAMPION #1, MONTOUR #10, MONTOUR #9, MIDLAND, LINDLEY AND SOLAR MINES WHEN SHIPPED FOR RAILROAD FUEL USE; AND, (2) FOR CHANGES IN MINIMUM PRICES ESTABLISHED FOR THE COALS OF ITS CHAMPION #1, MIDLAND, ARNOLD, MONTOUR #9, SOMERS AND SOLAR MINES WHEN SHIPPED FOR RAILROAD FUEL USE TO THE LEHIGH VALLEY RAILROAD, DELAWARE, LACKAWANNA AND WESTERN RAILROAD, READING RAILROAD, DELAWARE AND HUDSON RAILROAD AND ANN ARBOR RAILROAD

#### NOTICE OF AND ORDER FOR HEARING

Petitions, pursuant to the Bituminous Coal Act of 1937, having been duly filed

## FEDERAL REGISTER, Thursday, November 28, 1940

with this Division by the above-named party;

*It is ordered.* That a hearing in the above-entitled matters under the applicable provisions of said Act and the rules of the Division be held on December 11, 1940, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

*It is further ordered.* That Thurlow G. Lewis or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 7, 1940.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matters concerned herewith are in regard to: Docket No. A-365, the matter of the establishment of a minimum price of \$2.05 per ton for 4", 6" and 8" resultant mine run which is further modified by the removal therefrom of so much of the 1 1/8" slack size as is necessary to maintain in the resulting products 65% of 1 1/8" egg coal and 35% of 1 1/8" slack coal when for shipment from petitioner's Champion #1 Mine (Mine Index #28), Montour #10 Mine (Mine Index #29),

Montour #9 Mine (Mine Index #152), Midland Mine (Mine Index #148), Lindley Mine (Mine Index #128) and Solar Mine (Mine Index #211) to the New York Central Railroad, Erie Railroad and Pennsylvania Railroad for railroad fuel use; Docket No. A-366, the matter of the modification of the minimum prices established for the coals produced at petitioner's Champion #1 Mine (Mine Index #28), Midland Mine (Mine Index #148), Arnold Mine (Mine Index #5), Montour #9 Mine (Mine Index #152), Somers Mine (Mine Index #212) and Solar Mine (Mine Index #211), when for shipment as railroad fuel to the Lehigh Valley Railroad, Delaware, Lackawanna and Western Railroad, Reading Railroad, Delaware and Hudson Railroad and Ann Arbor Railroad, by reducing, in the amount of 20 cents per ton, the minimum prices of \$2.20 per ton established for lump and double screened coal and \$2.05 per ton established for mine run coal.

Dated: November 27, 1940.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 40-5164; Filed, November 27, 1940;  
11:40 a. m.]

## Bureau of Reclamation.

## PROVO RIVER PROJECT, UTAH

## FIRST FORM RECLAMATION WITHDRAWAL

NOVEMBER 7, 1940.

## The SECRETARY OF THE INTERIOR:

SIR: It is recommended that the following described lands be withdrawn from public entry, under the first form of withdrawal, as provided by Section 3, Act of June 17, 1902 (32 Stat. 388).

PROVO RIVER PROJECT, UTAH  
Salt Lake Meridian

T. 2 S., R. 8 E.  
Sec. 36, S 1/2;  
T. 3 S., R. 8 E.  
Sec. 1, Lots 1, 2, 3, 4, and S 1/2 N 1/2;  
Sec. 2, Lots 1, 2, 3, 4, and S 1/2 N 1/2;  
T. 2 S., R. 9 E.  
Sec. 20, Lots 1, 2, NE 1/4, W 1/4, and W 1/4 SE 1/4;  
Sec. 21, Lots 1, 2, 3, 4, 5, 6, and NW 1/4 NE 1/4;  
Sec. 28, Lots 1, 2, 3, and 4;  
Sec. 29, SE 1/4; Sec. 31, all; Sec. 32, N 1/2;

Uintah Meridian

T. 2 N., R. 9 W.  
Sec. 3, Lots 1, 2, 3, 4, S 1/2 N 1/2 and S 1/2;  
Sec. 10, all;  
T. 3 N., R. 9 W.  
Sec. 27, all; Sec. 28, all;  
Sec. 29, Lots 1, 2, 3, 4, 5, NE 1/4 NE 1/4, S 1/2 NE 1/4, NE 1/4 SW 1/4 and SE 1/4;  
Sec. 30, all fraction section;  
Sec. 32, Lots 1, 2, 3, and E 1/2;  
Sec. 33, N 1/2; Sec. 34, all.

\* Respectfully,

JOHN C. PAGE,  
Commissioner.

I concur November 7, 1940.

FRED W. JOHNSON,  
Commissioner of the General  
Land Office.

The foregoing recommendation is hereby approved, and it is so ordered.

The Commissioner of the General Land Office is hereby authorized and directed to cause the records of his office and of the local land office to be noted accordingly.

E. K. BURLEW,  
First Assistant Secretary of  
the Interior.

NOVEMBER 19, 1940.

[F. R. Doc. 40-5141; Filed, November 27, 1940;  
10:05 a. m.]

## General Land Office.

[Circular No. 1482]

REGULATIONS FOR THE SALE OF TOWN LOTS  
IN THE TOWN SITE OF KETCHUM,  
IDAHO

1. *Statutory authority.* The lots in the town site of Ketchum, Idaho, will be disposed of under the Act of Congress approved July 11, 1940 (Private No. 496, 76th Congress), and sections 2382 to 2386, inclusive, of the Revised Statutes. The Act provides that if within three years from the date of its enactment it shall be shown to the satisfaction of the Secretary of the Interior that any lot in the town site

has been held in good faith in peaceful, adverse possession by a citizen of the United States, his ancestors or grantors, for more than ten years next preceding the date of enactment of this Act under claim or color of title

and that (a) "during such time valuable improvements have been placed on such lot" or (b) "taxes levied on such lot have been paid", the Secretary in his discretion may cause a patent to issue for the lot upon the payment of such price as may be fixed by the Secretary of the Interior in conformity with the Act. The Act requires a notice of intention to purchase to be posted for a period of thirty days in the land office for the district in which the land is situated and published for four consecutive weeks in some newspaper designated by the Secretary of the Interior.

2. *Survey.* Pursuant to section 2382 of the Revised Statutes, a survey of the town site was made under the supervision of three local citizens and a plat thereof was executed on July 27, 1881.

3. *Area and price of lots.* The area of each lot to be sold and the price thereof, as fixed by the Secretary of the Interior in conformity with the Act, are shown on the attached schedule.

The purchase price of the lots must be paid to the Register of the District Land Office at Blackfoot, Idaho, at the time of the filing of the application.

4. *Application.* Claimants desiring to avail themselves of the provisions of the Act of July 11, 1940, must within three years from the date of its enactment file an application in the District Land Office at Blackfoot, Idaho.

No special form of application will be required. The application, however, must be under oath and in typewritten form,

or in legible manuscript, and should set forth:

(a) The full name and post office address of the claimant.

(b) Whether claimant is 21 years of age or over; male or female; married or single; and whether a native-born or naturalized citizen of the United States.

(c) An accurate description of the land sought, identifying it according to the official plat of survey executed July 27, 1881.

(d) That the lot or lots applied for have been held in good faith and in peaceful, adverse possession by the claimant, his ancestors or grantors for more than 10 years next preceding the date of the Act, under claim or color of title and during that time either

(i) That valuable improvements have been placed on the land, or

(ii) That the taxes levied thereon for the 10-year period on which the application is based have been paid by the applicant or his predecessors in interest.

(e) Whether or not any portion of the land applied for is claimed, occupied, or used adversely to the applicant. If so, the facts must be stated.

(f) Whether the applicant has filed any other claim under the Act of July 11, 1940, and if so, sufficient reference thereto for identification.

At the time of filing the application and in support thereof, claimant must submit additional evidence as shown below.

(5) *Citizenship.* If the claimant is a naturalized citizen of the United States, satisfactory evidence thereof must be submitted. This may consist of the original certificate of naturalization, which will be promptly returned to the applicant after examination by the General Land Office. In lieu thereof, claimant may show the facts as to his citizenship status, which should include a statement as to the date of his naturalization, the title and location of the court in which the proceedings were instituted and when available, the number of the document in question, if the proceedings were instituted since September 26, 1906. In cases of naturalization prior to September 27, 1906, there should also be given the date and place of the applicant's birth and the foreign country of which he was a citizen or subject. If the claimant is a married woman, the facts establishing her citizenship and that of her husband must be shown in accordance with Circular No. 1248, April 18, 1931 (53 I.D. 374; 43 CFR 137.3, 137.4).

(6) *Possession of the land.* If the applicant bases his claim upon matters of record, under color of title, he will be required to file an abstract of title certified to by a competent abstractor, setting forth all conveyances and transactions of record affecting the land up to the date of filing his application.

If he is not claiming as a record owner, he will be required to file an affidavit, corroborated by two witnesses having knowledge of the facts, showing the basis of his claim and setting forth:

(a) The names of all the intermediate possessors of the land during the 10 years immediately prior to the filing of his application.

(b) The manner in which each intermediate possessor acquired the land.

(c) The period of time each intermediate possessor held the land.

(d) The use and maintenance of the land by each intermediate possessor.

(e) The date the claimant acquired possession of the land, and the use and maintenance thereof by him.

(f) Any other available facts tending to establish the claimant's peaceful, adverse possession of the land for the period required.

7. *Improvements or taxes.* If improvements on the land are relied upon to support the claim, there must be incorporated in an affidavit, duly corroborated by two disinterested witnesses, a showing as to the nature, value, and location of the improvements, and when and by whom they were made.

If the payment of taxes for 10 years is relied upon, a statement showing the facts as to the payment of such taxes must be furnished. The evidence as to the payment of the taxes may be certified to by a responsible abstracter, or be in the form of tax receipts, or of a certificate issued under the hand and seal of the proper county official charged by law with the custody of such records.

(8) *Conflicts.* The records of the General Land Office show that a right-of-way for Idaho Federal Aid Highway Project No. 26-D2 (U. S. Highway No. 93), approved January 15, 1938, crosses several of the unpatented lots. Some of the lots are crossed by a line of constructed road of the Oregon Short Line Railway Company. Various lots involved may be affected by other occupancies, uses, or conflicting claims. Appropriate adjudication will be made by the General Land Office of all applications involving conflicts, and where found necessary or advisable revaluation of lots may be directed.

9. *Publication.* At the time of filing the application, submission of the evidence above required and the payment of the purchase price, the Register, except in cases of conflict or other proper objection, will prepare a notice of the filing of the application, to be published once a week for four consecutive weeks at the expense of the applicant in a newspaper of general circulation in the vicinity of the land applied for. A copy of the notice will be posted in the District Land Office at Blackfoot during the entire period of publication. The notice will provide that objections to the allowance of the application must be filed in

the office of the Register within 30 days from the date of the last publication. In order to reduce expense and upon the request of the applicants, the Register may, when expedient, include in the notice any number of applications. Before a certificate is issued, the applicant must file a copy of the notice, accompanied by the affidavit of the publisher or other proper official of the newspaper, to the effect that the notice was published in the manner and for the time required. In case of conflict, or where there is any other good reason for so doing, the Register will not order publication but will transmit the application to the General Land Office for consideration.

10. *Certificate.* Upon the filing of a satisfactory application, submission of proof, and payment as provided above, and in the absence of any protest, conflict, or other objection, the Register will issue a town lot certificate on Form No. 4-198.

FRED W. JOHNSON,  
Commissioner.

Approved: November 13, 1940.

OSCAR L. CHAPMAN,  
Assistant Secretary of the Interior.

#### SCHEDULE OF PRICES

#### Lots in Ketchum Town Site, Idaho

Block	Lot	Area in square feet	Price
1	8	5,500	\$40.00
	3	5,500	35.00
9	5	5,500	18.00
9	6	5,500	18.00
9	7	5,500	18.00
9	8	5,500	18.00
10	2	5,500	18.00
10	3	5,500	18.00
10	5	5,500	18.00
10	7	5,500	18.00
11	2	5,500	18.00
11	3	5,500	18.00
11	6	5,500	18.00
11	7	5,500	18.00
11	8	5,500	18.00
12	7	5,500	18.00
13	2	5,500	18.00
13	3	5,500	18.00
14	6	5,500	18.00
14	7	5,500	18.00
14	8	5,500	18.00
15	8	5,500	25.00
16	5	5,500	25.00
16	6	5,500	20.00
17	5	5,500	45.00
17	7	5,500	35.00
18	8	5,500	60.00
21	1	5,500	30.00
21	2	5,500	30.00
21	3	5,500	30.00
21	5	5,500	30.00
21	6	5,500	20.00
21	7	5,500	30.00
22	2	5,500	30.00
22	6	5,500	30.00
27	2	5,500	20.00
27	3	5,500	20.00
27	4	5,500	25.00
27	7	5,500	25.00
27	8	5,500	30.00
28	1	5,500	20.00
28	2	5,500	18.00
28	3	5,500	18.00
28	4	5,500	18.00
28	7	5,500	18.00
28	8	5,500	18.00
29	1	5,500	18.00
29	2	5,500	18.00
29	3	5,500	18.00
29	4	5,500	18.00
29	5	5,500	18.00
29	6	5,500	18.00
29	7	5,500	18.00
29	8	5,500	18.00

## FEDERAL REGISTER, Thursday, November 28, 1940

## SCHEDULE OF PRICES—continued

Lots in Ketchum Town Site, Idaho—Con.

Block	Lot	Area in square feet	Price	Block	Lot	Area in square feet	Price	Block	Lot	Area in square feet	Price
30	1	5,500	\$18.00	53	8	8,250	\$30.00	71	3	8,250	\$30.00
30	2	5,500	18.00	54	1	8,250	30.00	71	4	4,125	10.00
30	3	5,500	18.00	54	2	8,250	30.00	71	5	8,250	30.00
30	4	5,500	18.00	54	3	8,250	30.00	72	1	8,250	30.00
30	5	5,500	18.00	54	4	8,250	30.00	72	2	8,250	30.00
30	6	5,500	18.00	54	5	8,250	30.00	72	3	8,250	30.00
30	7	5,500	18.00	54	6	8,250	30.00	72	4	8,250	30.00
31	1	5,500	18.00	54	7	8,250	30.00	72	5	8,250	30.00
31	2	5,500	18.00	54	8	8,250	30.00	72	6	8,250	30.00
31	3	5,500	18.00	55	1	8,250	30.00	72	7	8,250	30.00
31	4	5,500	18.00	55	2	8,250	30.00	72	8	8,250	30.00
31	5	5,500	18.00	55	5	8,250	30.00	73	1	8,250	30.00
31	6	5,500	18.00	55	6	8,250	30.00	73	2	8,250	30.00
31	7	5,500	18.00	55	7	8,250	30.00	73	3	8,250	30.00
32	1	5,500	18.00	55	8	8,250	30.00	73	4	8,250	30.00
32	2	5,500	18.00	56	1	8,250	30.00	73	5	8,250	30.00
32	3	5,500	18.00	56	2	8,250	30.00	73	6	8,250	30.00
32	4	5,500	18.00	56	3	8,250	30.00	73	7	8,250	30.00
32	5	5,500	18.00	56	5	8,250	30.00	73	8	8,250	30.00
32	6	5,500	18.00	56	6	8,250	30.00	74	1	8,250	30.00
32	7	5,500	18.00	56	7	8,250	30.00	74	2	8,250	30.00
32	8	5,500	18.00	56	8	8,250	30.00	74	3	8,250	30.00
33	1	5,500	18.00	57	2	8,250	30.00	74	4	8,250	30.00
33	2	5,500	18.00	57	4	8,250	30.00	74	5	8,250	30.00
33	3	5,500	18.00	57	5	8,250	30.00	74	6	8,250	30.00
33	4	5,500	18.00	57	6	8,250	30.00	74	7	8,250	30.00
33	5	5,500	18.00	57	7	8,250	30.00	74	8	8,250	30.00
33	6	5,500	18.00	57	8	8,250	30.00	75	1	8,250	30.00
33	7	5,500	18.00	58	1	8,250	30.00	75	2	8,250	30.00
33	8	5,500	18.00	58	2	8,250	30.00	75	3	8,250	30.00
34	1	5,500	18.00	58	3	8,250	30.00	75	4	8,250	30.00
34	2	5,500	18.00	58	5	8,250	30.00	75	5	8,250	30.00
34	3	5,500	18.00	58	6	8,250	30.00	75	6	8,250	30.00
34	4	5,500	18.00	58	7	8,250	30.00	75	7	8,250	30.00
34	5	5,500	18.00	58	8	8,250	30.00	75	8	8,250	30.00
34	6	5,500	18.00	58	1	8,250	30.00	76	1	8,250	30.00
34	7	5,500	18.00	61	2	8,250	30.00	76	2	8,250	30.00
35	1	5,500	18.00	61	5	8,250	30.00	76	3	8,250	30.00
35	2	5,500	18.00	61	6	8,250	30.00	76	4	8,250	30.00
35	3	5,500	18.00	61	1	8,250	30.00	76	5	8,250	30.00
35	4	5,500	18.00	62	3	8,250	30.00	76	6	8,250	30.00
36	2	5,500	20.00	62	3	8,250	30.00	76	7	8,250	30.00
36	5	5,500	18.00	62	4	8,250	30.00	76	8	8,250	30.00
36	6	5,500	18.00	62	5	8,250	30.00	76	1	8,250	30.00
37	8	5,500	25.00	62	6	8,250	30.00	77	2	8,250	30.00
38	6	5,500	20.00	62	7	8,250	30.00	77	3	8,250	30.00
38	7	5,500	20.00	62	8	8,250	30.00	77	4	8,250	30.00
39	2	5,500	40.00	63	2	8,250	30.00	77	5	8,250	30.00
39	7	5,500	30.00	63	5	8,250	30.00	77	6	8,250	30.00
41	1	8,250	30.00	63	6	8,250	30.00	77	7	8,250	30.00
41	2	8,250	30.00	63	7	8,250	30.00	77	8	8,250	30.00
41	5	8,250	30.00	63	8	8,250	30.00	77	1	8,250	30.00
41	6	8,250	30.00	64	1	8,250	30.00	78	2	8,250	30.00
41	7	8,250	30.00	64	2	8,250	30.00	78	3	8,250	30.00
41	8	8,250	30.00	64	3	8,250	30.00	78	4	8,250	30.00
45	7	8,250	30.00	64	4	8,250	30.00	78	5	8,250	30.00
46	8	8,250	30.00	64	5	8,250	30.00	78	6	8,250	30.00
46	1	8,250	30.00	64	7	8,250	30.00	78	8	8,250	30.00
48	2	8,250	30.00	64	8	8,250	30.00	78	1	8,250	30.00
48	3	8,250	30.00	65	1	8,250	30.00	79	2	8,250	30.00
48	4	8,250	30.00	65	2	8,250	30.00	79	3	8,250	30.00
48	5	8,250	30.00	65	3	8,250	30.00	79	4	8,250	30.00
48	6	8,250	30.00	65	4	8,250	30.00	79	5	8,250	30.00
48	7	8,250	30.00	66	1	8,250	30.00	80	6	8,250	30.00
48	8	8,250	30.00	66	2	8,250	30.00	80	7	8,250	30.00
49	1	8,250	30.00	66	3	8,250	30.00	80	8	8,250	30.00
49	2	8,250	30.00	66	5	8,250	30.00	80	1	8,250	30.00
49	3	8,250	30.00	66	6	8,250	30.00	80	2	8,250	30.00
49	4	8,250	30.00	66	7	8,250	30.00	80	3	8,250	30.00
49	5	8,250	30.00	67	8	8,250	30.00	80	4	8,250	30.00
49	6	8,250	30.00	67	1	8,250	30.00	80	5	8,250	30.00
49	7	8,250	30.00	67	2	8,250	30.00	80	6	8,250	30.00
49	8	8,250	30.00	67	3	8,250	30.00	80	7	8,250	30.00
50	1	8,250	30.00	67	5	8,250	30.00	80	8	8,250	30.00
50	2	8,250	30.00	67	6	8,250	30.00	80	9	8,250	30.00
50	3	8,250	30.00	67	7	8,250	30.00	80	10	8,250	30.00
50	4	8,250	30.00	67	8	8,250	30.00	80	11	8,250	30.00
50	5	8,250	30.00	68	1	8,250	30.00	80	12	8,250	30.00
50	6	8,250	30.00	68	2	8,250	30.00	80	7	8,250	30.00
50	7	8,250	30.00	68	3	8,250	30.00	81	8	8,250	30.00
50	8	8,250	30.00	68	4	8,250	30.00	81	9	8,250	30.00
51	2	8,250	30.00	68	5	8,250	30.00	81	10	8,250	30.00
51	3	8,250	30.00	68	6	8,250	30.00	81	11	8,250	30.00
51	4	8,250	30.00	68	7	8,250	30.00	81	12	8,250	30.00
51	5	8,250	30.00	68	8	8,250	30.00	82	1	8,250	30.00
51	6	8,250	30.00	69	1	8,250	30.00	82	2	8,250	30.00
51	7	8,250	30.00	69	2	8,250	30.00	82	3	8,250	30.00
51	8	8,250	30.00	69	3	8,250	30.00	82	4	8,250	30.00
52	1	8,250	30.00	69	4	8,250	30.00	82	5	8,250	30.00
52	2	8,250	30.00	69	5	8,250	30.00	82	6	8,250	30.00
52	3	8,250	30.00	69	6	8,250	30.00	82	7	8,250	30.00
52	4	8,250	30.00	69	7	8,250	30.00	82	8	8,250	30.00
52	5	8,250	30.00	69	8	8,250	30.00	82	9	8,250	30.00
52	6	8,250	30.00	70	1	8,250	30.00	82	10	8,250	30.00
52	7	8,250	30.00	70	2	8,250	30.00	82	11	8,250	30.00
52	8	8,250	30.00	70	3	8,250	30.00	82	12	8,250	30.00
53	1	8,250	30.00	70	4	8,250	30.00	82	1	8,250	30.00
53	2	8,250	30.00	70	5	7,700	26.00	90	2	8,250	30.00
53	3	8,250	30.00	70	6	7,975	25.00	90	3	8,250	30.00
53	4	8,250	30.00	70	7	8,250	30.00	90	4	8,250	30.00
53	5	8,250	30.00	70	8	8,250	30.00	90	5	8,250	30.00
53	6	8,250	30.00	71	1	5,250	18.00	90	6	8,250	30.00
53	7	8,250	30.00	71	2	8,250	30.00	90	7	8,250	30.00

SCHEDULE OF PRICES—continued  
Lots in Ketchum Town Site, Idaho—Con.

Block	Lot	Area in square feet	Price
91	1	8,250	\$30.00
91	2	8,250	30.00
91	3	8,250	30.00
91	4	8,250	30.00
91	5	8,250	30.00
91	6	8,250	30.00
91	7	8,250	30.00
91	8	8,250	30.00
92	1	8,250	30.00
92	2	8,250	30.00
92	3	8,250	30.00
92	4	8,250	30.00
92	5	8,250	30.00
92	6	8,250	30.00
92	7	8,250	30.00
92	8	8,250	30.00
93	1	8,250	30.00
93	2	8,250	30.00
93	3	8,250	30.00
93	4	8,250	30.00
93	5	8,250	30.00
93	6	8,250	30.00
93	7	8,250	30.00
93	8	8,250	30.00
94	1	8,250	30.00
94	2	8,250	30.00
94	3	8,250	30.00
94	4	8,250	30.00
94	5	8,250	30.00
94	6	8,250	30.00
94	7	8,250	30.00
94	8	8,250	30.00
95	1	5,775	18.00
95	2	5,775	18.00
95	3	5,775	18.00
95	4	5,775	18.00
96	1	5,775	18.00
96	2	5,775	18.00
96	3	5,775	18.00
96	4	5,775	18.00
97	1	5,775	18.00
97	2	5,775	18.00
97	3	5,775	18.00
97	4	5,775	18.00
98	1	5,775	18.00
98	2	5,775	18.00
98	3	5,775	18.00
98	4	5,775	18.00
99	1	5,775	18.00
99	2	5,775	18.00
99	3	5,775	18.00
99	4	5,775	18.00

[F. R. Doc. 40-5137; Filed, November 27, 1940;  
10:03 a. m.]

RECREATIONAL WITHDRAWAL NO. 45  
REVOKED

NEBRASKA

Departmental order of May 28, 1931, withdrawing upon the petition of Sioux County, Nebraska, for recreational classification under the act of June 14, 1926, 44 Stat. 741, the following-described lands in that State, which are now within the boundaries of the Pine Ridge Land Utilization Project of the Department of Agriculture, is hereby revoked:

Sixth Principal Meridian

T. 32 N., R. 56 W., sec. 24, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  NW $\frac{1}{4}$ , 80 acres.

OSCAR L. CHAPMAN,  
Assistant Secretary of the Interior.  
NOVEMBER 15, 1940.

[F. R. Doc. 40-5139; Filed, November 27, 1940;  
10:04 a. m.]

Grazing Service.

ARIZONA GRAZING DISTRICT No. 3  
MODIFICATION

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269,

43 U. S. Code, sec. 315, *et seq.*), as amended, commonly known as the Taylor Grazing Act, the departmental order of July 14, 1938, establishing Arizona Grazing District No. 3, is hereby revoked as far as it affects the following-described land, such revocation to be effective upon the inclusion of the land within an administrative site for the Cabeza Prieta Game Range and the Kofa Game Range:

ARIZONA

Gila and Salt River Meridian

T. 12 S., R. 6 W., sec. 15, NE $\frac{1}{4}$  NW $\frac{1}{4}$ .

E. K. BURLEW,

Acting Secretary of the Interior.

OCTOBER 24, 1940.

[F. R. Doc. 40-5142; Filed, November 27, 1940;  
10:05 a. m.]

Office of Indian Affairs.

PROCLAMATION OF RESERVATION FOR  
SHOSHONE INDIANS

NOVEMBER 13, 1940.

By virtue of authority contained in section 7 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), the lands described below, acquired by purchase under the provisions of section 5 of that Act, for the use and benefit of such Shoshone Indians of the Duckwater Valley in Nevada, and such other Shoshone Indians of Southern Nevada, as may be designated by the Secretary of the Interior under the provisions of the Act of June 18, 1934, supra, are hereby proclaimed to be an Indian Reservation:

T. 12 N., R. 56 E., M. D. B. M.,  
Sec. 5; W $\frac{1}{2}$  NE $\frac{1}{4}$ , NW $\frac{1}{4}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$ ,  
NE $\frac{1}{4}$  SW $\frac{1}{4}$ , SW $\frac{1}{4}$  SW $\frac{1}{4}$ .  
Sec. 6; W $\frac{1}{2}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$ , W $\frac{1}{2}$ .  
Sec. 7; E $\frac{1}{2}$ , NW $\frac{1}{4}$ , E $\frac{1}{2}$  SW $\frac{1}{4}$ , NW $\frac{1}{4}$  SW $\frac{1}{4}$ .  
Sec. 8; W $\frac{1}{2}$  W $\frac{1}{2}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$ , SE $\frac{1}{4}$  SW $\frac{1}{4}$ .  
Sec. 17; NW $\frac{1}{4}$ .  
Sec. 18; NE $\frac{1}{4}$ .

T. 13 N., R. 56 E., M. D. B. M.,  
Sec. 19; SW $\frac{1}{4}$  SE $\frac{1}{4}$ .  
Sec. 29; W $\frac{1}{2}$  W $\frac{1}{2}$ , SE $\frac{1}{4}$  SW $\frac{1}{4}$ .  
Sec. 30; NE $\frac{1}{4}$ , E $\frac{1}{2}$  SE $\frac{1}{4}$ , NW $\frac{1}{4}$  SE $\frac{1}{4}$ ,  
E $\frac{1}{2}$  NW $\frac{1}{4}$ , SW $\frac{1}{4}$ .  
Sec. 31; W $\frac{1}{2}$ , E $\frac{1}{2}$  NE $\frac{1}{4}$ .  
Sec. 32; N $\frac{1}{2}$  NW $\frac{1}{4}$ , SW $\frac{1}{4}$  NW $\frac{1}{4}$ .

All of said lands being within Nye County, Nevada, containing 3,240 acres, more or less.

E. K. BURLEW,  
Acting Secretary of the Interior.

[F. R. Doc. 40-5136; Filed, November 27, 1940;  
10:02 a. m.]

DEPARTMENT OF AGRICULTURE.

Commodity Exchange Administration.

ORDER DESIGNATING THE NEW YORK PRODUCE EXCHANGE AS A CONTRACT MARKET FOR COTTONSEED OIL, SOYBEAN OIL, AND TALLOW UNDER THE COMMODITY EXCHANGE ACT

Pursuant to the authorization and direction contained in the Commodity Exchange Act, as amended (7 U.S.C. and Sup. V, secs. 1-17a), and as further amended by the act of Congress, ap-

proved October 9, 1940 (Public Law No. 818, 76th Cong.), I, Claude R. Wickard, Secretary of Agriculture, do hereby designate the New York Produce Exchange, of New York, New York, as a contract market for cottonseed oil, soybean oil, and tallow under the Commodity Exchange Act, as amended, effective December 8, 1940, said exchange having applied for, and having otherwise complied with the conditions imposed by said act precedent to, such designation. Said designation is subject hereafter to suspension or revocation in accordance with the provisions of said act: *Provided*, That for the purpose of such suspension or revocation, such designation and the order issued by the Acting Secretary of Agriculture on July 21, 1926, designating the said exchange as a contract market under the provisions of the Grain Futures Act, shall constitute a single designation.

Done at Washington, D. C., this 26th day of November 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,  
Secretary of Agriculture.

[F. R. Doc. 40-5160; Filed, November 27, 1940;  
11:34 a. m.]

Rural Electrification Administration.

[Administrative Order No. 540]

ALLOCATION OF FUNDS FOR LOANS

NOVEMBER 20, 1940.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	Amount
Idaho 1021A1 Camas	\$87,000
Minnesota 1001D1 Kanabec	138,000
Minnesota 1055E1 Watonwan	146,000
Mississippi 1031D1 Washington	115,000
Ohio 1032D2 Belmont	130,000
Oklahoma 1027B1 Bryan	141,000
South Carolina 1031A1 Horry	233,000
Tennessee 1035A1 Marion	160,000
Texas 1062B1 Bailey	128,000
Utah 1006G3 Garfield	22,000
Virginia 1011G4 Rockingham	60,000
Virginia 1029K1 Nelson	115,000
West Virginia 1010D1 Harrison	85,000
Wisconsin 1035E1 Richland	33,000
Wyoming 1011D1 Lincoln	18,000

[SEAL] HARRY SLATTERY,  
Administrator.

[F. R. Doc. 40-5162; Filed, November 27, 1940;  
11:34 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

[Administrative Order No. 74]

AMENDING DEFINITION OF "JEWELRY MANUFACTURING INDUSTRY"

By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, Philip B. Fleming, Administrator of the Wage and Hour

## FEDERAL REGISTER, Thursday, November 28, 1940

Division, Department of Labor, do hereby amend the definition of the term "jewelry manufacturing industry" as contained in paragraph 2 of Administrative Order No. 66,<sup>1</sup> dated October 23, 1940, to read as follows:

(a) The manufacturing, processing, or assembling, wholly or partially from any material, of jewelry, commonly or commercially so known. Jewelry as used herein *includes*, without limitation, religious, school, college, and fraternal insignia; articles of ornament or adornment designed to be worn on apparel or carried on or about the person, including, without limitation, cigar and cigarette cases, holders and lighters, watch cases, metal mesh bags and metal watch bracelets; and chain, mesh, and parts for use in the manufacture of any of the articles included in this definition. Jewelry as used herein does not include pocket knives, cigar cutters, badges, emblems, military and naval insignia, belt buckles, and handbag and pocketbook frames and clasps, or commercial compacts and vanity cases, except when made from or embellished with precious metals or precious, semi-precious, synthetic or imitation stones; and the assaying, refining, and smelting of base or precious metals.

The term "parts" as used in the foregoing paragraph does not include parts which are used predominately for products other than jewelry, such as springs, blades, and nail files. The term "commercial compacts and vanity cases" as used means compacts and vanity cases which bear the trade name or mark of a cosmetic manufacturer and are made for the purpose of distributing and advertising said cosmetic.

(b) The manufacturing, cutting, polishing, encrusting, engraving, and setting of precious, semiprecious, synthetic, and imitation stones.

(c) The manufacturing, drilling, and stringing of pearls, imitation pearls, and beads designed for use in the manufacture of jewelry.

Signed at Washington, D. C., this 26 day of November 1940.

PHILIP B. FLEMING,  
Administrator.

[F. R. Doc. 40-5151; Filed, November 27, 1940;  
10:44 a. m.]

[Administrative Order No. 75]

AUTHORIZATION OF THOMAS W. HOLLAND TO ACT ON NOVEMBER 29 AND NOVEMBER 30, 1940, IN THE ABSENCE OF THE ADMINISTRATOR, THE DEPUTY ADMINISTRATOR AND THE ASSISTANT TO THE ADMINISTRATOR

By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, Philip B. Fleming, Administrator of the Wage and Hour Division, Department of Labor,

Do hereby authorize Thomas W. Holland, Director of the Research and Sta-

tistics Branch, to act as Administrator and to exercise any or all of the powers of the Administrator under the Fair Labor Standards Act of 1938, on November 29 and November 30, 1940, in the absence of the Administrator, the Deputy Administrator and the Assistant to the Administrator.

This order shall be effective as of November 29, 1940.

Signed at Washington, D. C., this 26th day of November, 1940.

PHILIP B. FLEMING,  
Administrator.

[F. R. Doc. 40-5152; Filed, November 27, 1940;  
10:44 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Act are issued under section 14 thereof and § 522.5B of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) to the employers listed below effective November 28, 1940.

The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name. These Certificates are issued upon the employers representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The Certificates may be cancelled in the manner provided for in the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

The Atlas Embroidery Company, 694 Washington Street, Boston, Massachusetts; Machine Embroidery and Puffing; 10 learners; 240 hours; 25 cents for any one learner; Machine Operator (embroidery); March 13, 1941.

Signed at Washington, D. C., this 27th day of November 1940.

MERLE D. VINCENT,  
Authorized Representative  
of the Administrator.

[F. R. Doc. 40-5171; Filed, November 27, 1940;  
12 m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment

of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20, 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393).

Textile Determination and Order, November 8, 1939 (4 F.R. 4531) as amended, April 27, 1940 (5 F.R. 1586).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective November 28, 1940. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

Adirondack Sportswear, Inc., 20 Hamilton Street, Amsterdam, New York; Apparel; Jackets; 12 learners (75% of the applicable hourly minimum wage); April 3, 1941.

Allen Manufacturing Company, 327 West Adams Street, Chicago, Illinois; Apparel; Skirts and Jackets; 5 learners (75% of the applicable hourly minimum wage); November 28, 1941.

C. A. Baltz and Sons, 49 Greenkill Avenue, Kingston, New York; Apparel; Men's and Ladies' pajamas and Men's Sport Shirts; 5 percent (75% of the applicable hourly minimum wage); November 28, 1941.

Bareville Garment Company, Bareville, Pennsylvania; Apparel; Undergarments and nightwear; 5 learners (75% of the applicable hourly minimum wage); March 27, 1941.

Bristol Frocks, Franklin Street, Bristol, Rhode Island; Apparel; Cotton Dresses; five learners (75% of the applicable

hourly minimum wage); November 28, 1941.

Derby Underwear Company, Bowling Green, Kentucky; Apparel; Men's and Boys' Underwear of Woven Fabric; 150 learners (75% of the applicable hourly minimum wage); April 17, 1941.

Eve-n-Form Undergarment Company, 123 North 13th Street, Philadelphia, Pennsylvania; Apparel; Rayon and Silk Ladies' Underwear; 5 learners (75% of the applicable hourly minimum wage); November 28, 1941.

H. B. Glover Company, Union Street, Dyersville, Iowa; Apparel; Shirts; 5 learners (75% of the applicable hourly minimum wage); November 28, 1941.

Gordon and Ferguson Company, 333 Sibley Street, St. Paul, Minnesota; Apparel; Overcoats, sportswear, sheeplined clothing, and other outerwear; 5 percent (75% of the applicable hourly minimum wage); November 28, 1941.

Keystone Garment Company, Reinholds, Pennsylvania; Apparel; Men's and Boys' Pajamas; 5 learners (75% of the applicable hourly minimum wage); November 28, 1941.

Lustberg Nast & Company, Inc., 43 Smith Street, Middletown, New York; Apparel; Dress Shirts; 5 percent (75% of the applicable hourly minimum wage); November 28, 1941.

McAdoo Sportswear Company, Inc., 328 Ferry Street, Danville, Pennsylvania; Apparel; Children's Cotton Sportswear; 10 learners (75% of the applicable hourly minimum wage); April 24, 1941.

Mayfair Shirt Company, Greensboro, Maryland; Apparel; Boys' Shirts; 5 learners (75% of the applicable hourly minimum wage); November 28, 1941.

Miller Manufacturing Company, 10 Leonard Street, Amsterdam, New York; Apparel; Men's Work Pants and Work Clothes (cotton); 3 learners (75% of the applicable hourly minimum wage); November 28, 1941.

Mizzie Dress, Main Street, Central Valley, New York; Apparel; Ladies' Dresses; 5 learners (75% of the applicable hourly minimum wage); November 28, 1941.

A. Morganstern and Company, Fredericksburg, Virginia; Apparel; Pants; 2 learners (75% of the applicable hourly minimum wage); November 28, 1941.

Pollak Brothers, Inc., 227 West Main Street, Fort Wayne, Indiana; Apparel; Dresses and Smocks; 5 percent (75% of the applicable hourly minimum wage); November 28, 1941.

Princess Ann Dress Company, Princess Anne, Maryland; Apparel; Children's Dresses; 5 learners (75% of the applicable hourly minimum wage); November 28, 1941.

Robinson Manufacturing Company, Inc., Dayton, Tennessee; Apparel; Woven Underwear; 16 learners (75% of the applicable hourly minimum wage); March 27, 1941.

Rosette Manufacturing Company, 625 LaSalle Street, Berwick, Pennsylvania; Apparel; Ladies' and Children's Aprons;

5 learners (75% of the applicable hourly minimum wage); November 28, 1941.

Sel-Mor Garment Company, 923 Washington Street, St. Louis, Missouri; Apparel; Underwear; 5 percent (75% of the applicable hourly minimum wage); November 28, 1941.

Snow and Baker Company, The, Lower Main Street, Whitefield, New Hampshire; Apparel; Overalls & Coveralls and Work Shirts; 3 learners (75% of the applicable hourly minimum wage); November 28, 1941.

T. J. Jones Company, Wilkes-Barre, Pennsylvania; Apparel; Patented Miners' Caps; 2 learners (75% of the applicable hourly minimum wage); November 28, 1941.

Trimount Clothing Company, Inc., 18 Station Street, Boston, Massachusetts; Apparel; Men's Clothing; 5 percent (75% of the applicable hourly minimum wage); November 28, 1941.

Paul K. Weil Company, 506 North 4th Street, St. Louis, Missouri; Glove; Knit Fabric Gloves; 5 learners; November 28, 1941.

Paul K. Weil Company, 506 North 4th Street, St. Louis, Missouri; Glove; Knit Fabric Gloves; 5 learners; May 22, 1941.

Tennessee Underwear Company, Tullahoma, Tennessee; Glove; Work Gloves; 5 learners; November 28, 1941.

Dependable Hosiery Mills, Inc., Liberty, North Carolina; Hosiery; Seamless; 5 learners; November 28, 1941.

Excel Hosiery Mills, Union, South Carolina; Hosiery; Seamless; 5 percent; November 28, 1941.

Excel Hosiery Mills, Union, South Carolina; Hosiery; Seamless; 5 learners; July 28, 1941.

Glenn Hosiery Mills, Burlington, North Carolina; Hosiery; Seamless; 5 learners; November 28, 1941.

H. R. H. Silk Hosiery Mills, Inc., Moberly, Missouri; Hosiery; Seamless; 5 learners; July 28, 1941.

House of Byer, Inc., Cambridge, Massachusetts; Hosiery; Seamless and Full Fashioned; 5 learners; November 28, 1941.

Infants Socks, Inc., Middletown, Pennsylvania; Hosiery; Seamless; 5 percent; November 28, 1941.

Infants Socks, Inc., Middletown, Pennsylvania; Hosiery; Seamless; 25 learners; July 28, 1941.

The Pen-Harris Company, Terre Hill, Pennsylvania; Hosiery; Seamless and Full Fashioned; 5 learners; November 28, 1941.

Rufus D. Wilson, Inc., Webb Avenue, Burlington, North Carolina; Hosiery; Full Fashioned; 32 learners; July 28, 1941.

Siler City Hosiery Company, Siler City, North Carolina; Hosiery; Full Fashioned; 50 learners; July 28, 1941.

Sterling Silk Glove Company, Washington Township, Pennsylvania; Hosiery; Full Fashioned; 5 percent; November 28, 1941.

Byrne-Ross Knitting Mills, Grand & Smith Streets, Kingston, New York; Knitted Wear; Knitted Outerwear; 5 learners; November 28, 1941.

Lerner Knitwear, 5 Bridge Street, Shelton, Connecticut; Knitted Wear; Knitted Outerwear; 5 learners; November 28, 1941.

Cherokee Candlewick, Inc., Calhoun, Georgia; Textile (Tufted Bedspread Branch); Chenille Bedspreads; 5 percent; November 28, 1941.

Primrose Bedspread Corporation, 1357 Rodney French Boulevard, New Bedford, Massachusetts; Textile (Tufted Bedspread Branch); Chenille Bedspreads and Robes; 25 learners; April 17, 1941.

Schindel-McDaniels Co., Inc., 6 Tennessee Street, Cartersville, Georgia; Textile (Tufted Bedspread Branch); Tufted Bedspreads; 20 learners; May 15, 1941.

Shapiro & Son Curtain Corporation, 659 West 13 Street, Easton, Pennsylvania; Textile (Tufted Bedspread Branch); Curtains and Bedspreads; 47 learners; May 15, 1941.

Guerin Mills, Inc., Alsace Mill, 292 East School Street, Woonsocket, Rhode Island; Woolen; Worsted Yarns; 3 percent; November 28, 1941.

Signed at Washington, D. C., this 27th day of November 1940.

MERLE D. VINCENT,  
Authorized Representative  
of the Administrator.

[F. R. Doc. 40-5172; Filed, November 27, 1940;  
12 m.]

## FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 5921]

APPLICATION OF BROWN RADIO SERVICE & LABORATORY (WSAY) (GORDON P. BROWN, OWNER)

### NOTICE OF HEARING

Dated, June 20, 1940; for construction permit; class of service, broadcast; class of station, broadcast; location, Rochester, N. Y.; operating assignment specified: Frequency, 1340 kc.; power, 1 kw. night, 1 kw. day; hours of operation, unlimited; directional antenna day and night.

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine the area and population now served by station WSAY.
2. To determine the area and population which would be served by Station WSAY operating as proposed.
3. To determine the nature, extent, and effect of the interference, if any, between the operation of the proposed station and the operation of Station WFEA as proposed by its pending application, B1-P-2730.

## FEDERAL REGISTER, Thursday, November 28, 1940

4. To determine the area and population which would be served by the proposed station in the event that the pending application, B1-P-2730, of Station WFEA is also granted.

5. To determine whether the granting of the instant application would better serve public interest, convenience, or necessity than the granting of the pending application, B1-P-2031, of Edward J. Doyle.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Brown Radio Service & Laboratory,  
Gordon P. Brown, Owner, Station  
WSAY,  
192 S. Goodman St.,  
Rochester, N. Y.

Dated at Washington, D. C., November 25, 1940.

By the Commission.

[SEAL]

T. J. SLOWIE,  
Secretary.

[F. R. Doc. 40-5143; Filed, November 27, 1940;  
10:29 a. m.]

[Docket No. 5943]

## APPLICATION OF T. B. GILLESPIE (NEW)

## NOTICE OF HEARING

Dated, July 17, 1940; for construction permit; class of service, broadcast; class of station, broadcast; location, Palatka, Florida; operating assignment specified: Frequency, 1310 kc.; power, 250 w. night, 250 w. day; hours of operation, unlimited.

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the applicant has made false statements to the Commission in his application.

2. To determine whether the applicant is financially qualified to construct and operate the proposed station.

3. To determine whether the applicant is qualified by reason of character, training, and previous experience to construct and operate a broadcast station.

4. To determine whether the applicant intends to construct and actually operate

and control the proposed broadcast station.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

T. B. Gillespie,  
% Chamber of Commerce,  
Palatka, Florida.

Dated at Washington, D. C., November 25, 1940.

By the Commission.

[SEAL]

T. J. SLOWIE,  
Secretary.

[F. R. Doc. 40-5144; Filed, November 27, 1940;  
10:29 a. m.]

[Docket No. 5944]

## APPLICATION OF ROBERT V. LEE (NEW)

## NOTICE OF HEARING

Dated, February 27, 1940; for construction permit; class of service, broadcast; class of station, broadcast; location, Bradenton, Florida; operating assignment specified: Frequency, 1500 kc.; power, 250 w. night, 250 w. day; hours of operation, unlimited.

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine whether the applicant has made false statements to the Commission in his application.

2. To determine whether the applicant is financially qualified to construct and operate the proposed station.

3. To determine whether the applicant is qualified by reason of character, training, and previous experience to construct and operate a broadcast station.

4. To determine whether the applicant intends to construct and actually operate and control the proposed broadcast station.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such

issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Robert V. Lee,  
3210 Riverview Boulevard,  
Bradenton, Florida.

Dated at Washington, D. C., November 25, 1940.

By the Commission.

[SEAL]

T. J. SLOWIE,  
Secretary.

[F. R. Doc. 40-5145; Filed, November 27, 1940;  
10:29 a. m.]

[Docket No. 5023]

## APPLICATION OF EDWARD J. DOYLE (NEW)

## NOTICE OF HEARING

Dated December 28, 1937; for construction permit; class of service, broadcast; class of station, broadcast; location, Rochester, New York; operating assignment specified: Frequency, 1340 kc.; power, 1 kw. night, 1 kw. day; hours of operation, unlimited (D. A. day and night use).

You are hereby notified that the Commission has examined the above described application and has designated the matter for hearing for the following reasons:

1. To determine the area and population which would be served by the proposed station.

2. To determine the nature, extent, and effect of the interference, if any, between the operation of the proposed station and the operation of Station WFEA as proposed by its pending application, B1-P-2730.

3. To determine the area and population which would be served by the proposed station in the event that the pending application, B1-P-2730, of Station WFEA is also granted.

4. To determine whether the granting of the instant application would better serve public interest, convenience, or necessity than the granting of the pending applications, B1-P-2924, of Gordon P. Brown, licensee of Station WSAY.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of

Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Edward J. Doyle,  
45 Exchange Street,  
Rochester, New York.

Dated at Washington, D. C., November 25, 1940.

By the Commission.

[SEAL]

T. J. SLOWIE,  
Secretary.

[F. R. Doc. 40-5146; Filed, November 27, 1940;  
10:29 a. m.]

#### INTERSTATE COMMERCE COMMISSION.

##### ORGANIZATION SCHEDULE AND ASSIGNMENT OF WORK AND FUNCTIONS

At a general session of the Interstate Commerce Commission, held at its office in Washington, D. C., on the 15th day of November A. D. 1940.

Section 17 of the Interstate Commerce Act, as amended (U.S.C. title 49, sec. 17), and other provisions of law being under consideration, the following order was duly adopted:

*Ordered:* Effective December 2, 1940, except as may be otherwise provided herein, the following organization schedule and assignment of work and functions shall be in force:

##### DIVISIONS OF THE COMMISSION

That there continue to be, as at present, five divisions of the Commission, known, respectively, as divisions one, two, three, four, and five, consisting of three members each.

As provided by section 17 of the Interstate Commerce Act, as amended, each division shall have authority to hear and determine, order, certify, report or otherwise act as to any work, business, or functions assigned or referred to it under the provisions of that section, and with respect thereto shall have all the jurisdiction and powers conferred by law upon the Commission, and be subject to the same duties and obligations.

Each division with regard to any case or matter assigned to it, or any question brought to it under this delegation of duty and authority, may call upon the whole commission for advice and counsel, or for consideration of any case or question by an additional commissioner or commissioners assigned thereto; and the commission may recall and bring before it as such any case, matter or question so allotted or assigned and may either dispose of such case, matter, or question itself, or may assign or refer the matter to the same or another division.

Each division may determine the time and place for its conferences and determine its order of business.

##### ASSIGNMENT OF DUTIES TO DIVISIONS

That work, business, and functions of the Commission be assigned and referred to the respective divisions for action thereon, as follows:

##### Division One

General conduct of administrative matters not otherwise assigned or reserved, including among other things, work formerly assigned to the following committees but reassigned to Division One by the order of May 8, 1939: Salaries and Personnel, Finance, Cooperation with State Commissions, Organization, Building and Assignment of Space, Admissions to Practice, Reporting, and Annual Report.

Section 20 (1) to (10), inclusive, relating to the reports, records, and accounts of carriers, lessors, and other persons under Part I.

Section 204 (a) (1), (2), and (4); section 220; and section 222 (b), (d), and (g), so far as those sections relate to reports, records, and accounts of carriers, brokers, and other persons under Part II.

Section 313, relating to accounts, records, and reports of carriers and lessors under Part III.

Sections 1 (21), 5 (3), 6 (10), 10, 15 (11) and (12), 16 (8) to (12), inclusive; 20a (11) and (12), 25 (h), of Part I; section 222 of Part II; sections 316 (b) and 317 of Part III, and the Elkins Act, as amended, so far as relating to discovery and enforcement of penalties for violations of provisions of law.

Section 13 (3) of Part I, so far as relating to the institution of investigations specified in that paragraph, on the petition of the carrier or carriers concerned.

Section 304 (c), relating to classifications of groups of water carriers subject to Part III and rules, regulations, and requirements relating thereto.

Section 204 (c) and section 304 (e), so far as relating to the investigation of complaints of alleged non-compliance with provisions of Parts II and III hereinbefore assigned to Division One or requirements established pursuant thereto.

Matters coming from the Bureau of Personnel Supervision and Management under Executive Order No. 7916, of June 24, 1938, and amendatory and supplementary Executive Orders and matters assigned to Division One by the order of the Commission of July 24, 1939, amending an order of October 12, 1935.

Matters coming from the Bureau of Inquiry under Parts I and III, the Elkins Act, and acts supplemental thereto, and the Clayton Antitrust Act, as amended, and from the Section of Law and Enforcement of the Bureau of Motor Carriers, so far as relating to the discovery of derelictions and enforcement of penal provisions of Part II.

Admission, disbarment, and suspension of practitioners before the Commission, under Rule I-B of the Rules of Practice.

##### Division Two

Section 4, relating to long-and-short-haul and aggregate-of-intermediate rates, and relief therefrom.

Section 6, except paragraphs (11) and (12), relating to schedules of carriers under Part I, sections 217 and 218, relating to tariffs of common carriers and schedules of contract carriers under Part II, and section 306, relating to tariffs of common carriers and schedules of contract carriers under Part III, including, among other matters, applications thereunder, forms and specifications, and questions turning upon the construction or application thereof.

Section 15 (7) of Part I, sections 216 (g) and 218 (c) of Part II, and section 307 (g) and (i) of Part III, relating to the disposition of applications for suspension of schedules or parts thereof, including authority to institute investigations into rates, fares, practices, and charges of carriers under Parts I, II, and III, as ancillary to a proceeding of investigation and suspension.

Sections 6 (11) (b) and 6 (12) of the Interstate Commerce Act and section 11 (d) of the Panama Canal Act, U. S. Code, t. 49, sec. 51, relating to the establishment, under the additional authority conferred upon the Commission by the Panama Canal Act of proportional rates to or from ports, and through rail and water arrangements in foreign commerce.

Section 19a, relating to the valuation of the property of carriers.

Section 20 (11) of Part I and section 219 of Part II, so far as relating to the authorization of released rates and ratings.

Sections 3 (2), 223, and 318, so far as relating to the prescription of rules governing the delivery of freight and the settlement of rates and charges, and to prevent unjust discrimination, under Parts I, II, and III.

Section 22 so far as relating to reduced rates in case of calamitous visitation or disaster.

Section 304 (d) of Part III, relating to relief from the provisions of that part because of competition from carriers engaged in foreign commerce.

Section 204 (c) and section 304 (e), so far as relating to the investigation of complaints of alleged non-compliance with provisions of Parts II and III hereinbefore assigned to Division Two or requirements established pursuant thereto.

Standard Time Act of March 19, 1918, as amended, U. S. Code, t. 15, secs. 261-265, inclusive.

Matters coming from the Board of Reference, relating to instructions concerning the informal consideration of unusual matters and cases for which there is no governing precedent.

Matters coming from the Bureau of Informal Cases.

##### Division Three

Civil Aeronautics Act of 1938, approved June 23, 1938, U. S. Code, t. 49, sec. 643,

so far as relates to action as members of a joint board, as may be directed by the Chairman of the Commission.

Section 1 (9) to (17), inclusive, relating to switch connections, car-service and emergency directions with respect thereto, and contracts of common carriers by railroad or express companies for the furnishing of protective service against heat or cold.

Section 5 (1), relating to the pooling of traffic, service, or gross or net earnings of common carriers subject to the act.

Section 3 (5), relating to requirement of common use of terminals and compensation therefor.

Section 6 (11) (a) of the Interstate Commerce Act, and section 11 (d) of the Panama Canal Act, relating to the additional jurisdiction over rail and water traffic conferred upon the Commission by the Panama Canal Act, U. S. Code, t. 49, sec. 51, with respect to physical connections between rail lines and docks;—and section 201 (c), Transportation Act, 1920, as amended, U. S. Code, t. 49, sec. 141 (c).

Section 15 (10), relating to the direction of the routing of unrouted traffic.

Sections 15 (13), 225, and 314, relating to fixation of reasonable allowances to the owner of property transported for transportation services rendered, and I & S. No. 11, The Tap Line Case.

Section 25 (a) to (g), inclusive, as amended, relating to the installment and maintenance of safety devices by carriers by railroad, other than enforcement of penalties.

Section 1 (21) (other than enforcement of penalties), so far as relating to the compulsory construction of new roads or procurements of additional facilities.

Section 204 (a) (1), (2), (3), and (5) of Part II so far as relating to the establishment of reasonable requirements for the safe transportation of explosives and other dangerous articles, including inflammable liquids, inflammable solids, oxidizing materials, corrosive liquids, compressed gases, and poisonous substances.

Section 204 (c) so far as relating to the investigation of complaints of alleged non-compliance with provisions of Part II hereinbefore assigned to Division Three or requirements established pursuant thereto.

Matters arising under the Transportation of Explosives and Dangerous Articles Act, Accident Reports Act, Safety Appliance Act, Hours of Service Act, Locomotive Inspection Act, Medals of Honor Act, Ash Pan Act, Railroad Retirement Act of 1937, Carriers Taxing Act of 1937, Railroad Unemployment Insurance Act, the Railway Labor Act, as respectively amended; the Block Signal Resolution of June 30, 1906, and Sundry Civil Appropriation Act of May 27, 1908; Postal Service Acts, U. S. Code, t. 39, c. 6, 12, 13, 14, and 15, so far as those acts relate to duties of the Commission.

*Divisions Two and Three alternately, in monthly rotation:*

All cases not otherwise herein assigned or referred to another division or reserved to the Commission, arising under Part I, and all cases involving rates, fares, or charges arising under Parts II and III, which cases (a) have involved the taking of testimony at public hearings, and are set to be argued orally before one of such divisions, or (b) are submitted without oral argument, but which have involved the taking of testimony at public hearings.

#### *Division Four*

Section 1 (18) to (20), inclusive, and sections 303 (1), 309, 310, 311, and 312, relating to certificates of convenience and necessity under Parts I and III and permits under Part III.

Section 5 (2) to (13), inclusive (other than enforcement of penalties), and 210a (b) of Part II, relating to the consolidation, merger, purchase, lease, operating contracts, and acquisition of control of carriers, and to non-carrier control.

Section 5 (14) to (16), inclusive, relating to common control of railroads and common carriers by water.

Section 302 (e) and section 303 (b), (c), (d), (e), (f), (g), and (h), relating to exemptions of water carriers from the provisions of Part III.

Sections 20a and 214 (other than the enforcement of penalties), relating to the issuance and approval of securities of carriers under Parts I and II, and to the holding of interlocking positions as director or officer.

Section 204 (c) and section 304 (e), so far as relating to the investigation of complaints of alleged non-compliance with provisions of Parts II and III hereinbefore assigned to Division Four or requirements established pursuant thereto.

The Uniform Bankruptcy Act, as amended, U. S. Code, t. 11, relating to the reorganization of corporations subject to the exercise of the regulatory powers of the Commission.

Matters arising under the Reconstruction Finance Corporation Act, as amended, and under Section 20 of Title II of the Emergency Relief and Construction Act of 1932, as amended.

Matters arising under the Clayton Antitrust Act, as amended (other than enforcement of penalties).

Matters arising under Section 22 (b) (9) of the Internal Revenue Code (relating to exclusions from gross income) as amended by the Act approved June 29, 1939, 53 Stat. c. 247, Sec. 215 (a) p. 875.

#### *Division Five*

Section 203 (b), relating to partial exemption from the provisions of Part II, including determinations as to the necessity for application of Part II to transportation within a municipality, between contiguous municipalities, or within an adjacent zone, and the deter-

mination of the limits of such zones, referred to in section 203 (b) (8) and to casual transportation operations by motor vehicle, referred to in section 203 (b) (9).

Section 204 (a) (1) to (3), so far as relates to reasonable requirements with respect to continuous and adequate service and transportation of baggage and express by common carriers, and to qualifications and maximum hours of service of employees and safety of operation and equipment for common, contract, and private carriers, but not including requirements for the safe transportation of explosives and other dangerous articles.

Section 204 (a) (4) and section 211 (a) to (c), relating to the regulation of brokers (other than their accounts, records, and reports).

Section 204 (4a), relating to certificates of exemption to motor carriers operating solely within a single State.

Section 204 (7), so far as relates to inquiries into the management of the business of motor carriers and brokers and persons controlling, controlled by, or under common control with motor carriers and requests for information deemed necessary to carry out the provisions of Part II.

Section 204 (b), relating to the establishment of classifications of brokers or of groups of carriers and just and reasonable rules, regulations and requirements therefor.

Section 204 (c), so far as relating to investigation of complaints of alleged non-compliance with the provisions of Part II assigned to Division Five or requirements established pursuant thereto.

Sections 206, 207, and 208, relating to certificates of public convenience and necessity.

Section 209, relating to permits.

Section 210, relating to dual operations.

Section 210a (a), relating to grants of temporary operating authority.

Section 212, relating to suspension, change, revocation, and transfer of certificates, permits, and licenses.

Section 215, relating to security for the protection of the public.

Section 224, relating to identification of motor carriers.

Section 226, relating to investigation of motor vehicle sizes, weights, etc.

Any other matters arising under Part II not hereinbefore specially assigned or referred to other divisions.

In connection with the foregoing assignments Division Five is authorized to institute, conduct and determine investigations into motor-carrier practices pertaining to matters covered by such assignments.

From such assignment of work there shall be reserved for consideration and disposition by the Commission (1) all investigations on the Commission's own motion heretofore entered upon and hereafter instituted, except as hereinbefore otherwise provided, and (2) all

applications for rehearing, reargument or other reconsideration and all cases before the Commission for reconsideration, except as hereinafter otherwise provided; and there shall also be excepted from this assignment of work all cases submitted prior to November 1, 1940, either to the Commission or to a division thereof, or submitted to the Commission and specially referred to a division, the various cases enumerated in any previous order of the Commission as reserved for consideration and disposition by the Commission, and all cases otherwise specially assigned.

Unless otherwise ordered by the Commission, any Commissioner who is transferred from a division shall continue as a member of such division for the disposition of cases orally argued and submitted prior thereto, and those in which drafts of final reports are under consideration, in lieu of the Commissioner designated to serve as a regular member of the division.

#### ASSIGNMENT OF DUTIES TO INDIVIDUAL COMMISSIONERS

That the following portions of the work, business, and functions of the Commission, be assigned and referred to individual Commissioners as herein designated.

#### To the Individual Members of Divisions Two and Three

In rotation, in each month, to the members of the particular division which, according to the assignment heretofore made, is designated to receive submissions of rate, etc., cases in that month: (a) shortened procedure cases under Rule of Practice X-A, submitted without oral argument during the month; and (b) shortened procedure cases assigned for oral argument during the month.

#### To Individual Members of the Commission

The Commissioner to whom the Bureau of Traffic reports: (a) special permissions or other permissible waivers of rules regarding schedules of rates, etc., under sections 6, 217, 218, and 306; (b) released rates applications under section 20 (11); (c) Ex Parte No. 13, with respect to modifications under section 6 (3) of posting requirements of section 6 (1); and (d) reduced rates authorizations in cases of calamitous visitation under section 22.

The Commissioner to whom the Bureau of Accounts reports: distribution of carrier accounts and spreading of items over periods of time; and prescription of depreciation rates and modification thereof as to individual carriers under sections 20 (4), 220 (c), and 313 (d).

The Commissioner to whom the Bureau of Service reports: uncontested matters relating to the transportation of explosives and other dangerous articles.

The Commissioner to whom the Bureau of Locomotive Inspection reports: un-

contested matters arising under the Boiler Inspection Act, as amended.

The Commissioner to whom the Bureau of Safety reports: uncontested matters under section 25, the Safety Appliance Acts, as amended, and the Hours of Service Act, as amended.

The Commissioner to whom the Bureau of Finance reports: applications under section 20a (12) for authority to hold the position of officer or director of more than one corporation, when all the corporations are part of the same system.

The Commissioner to whom the Bureau of Statistics reports: requests of carriers for extension of time for filing annual reports.

The Commissioner to whom the Bureau of Informal Cases reports: Applications and complaints on the special docket.

The Commissioner to whom the Bureau of Inquiry reports: The reference of cases involving supposed violations of law under Parts I, II, and III of the Interstate Commerce Act, the Elkins Act, or related acts, to the Department of Justice for investigation and possible prosecution.

The Chairman of the respective divisions: Merely procedural matters in any formal case or pending matter, and extensions of time for compliance with orders (except in investigations on the Commission's own motion), in any such case or matter, when the subject matter or particular proceeding has been or is assigned or referred to the divisions: *Provided*, That if the proceeding has been assigned to a Commissioner for administrative handling or preparation of report, such Commissioner shall act on such procedural matters (including extensions of time for compliance with orders); and if the subject matter or par-

ticular proceeding has not been assigned or referred to a division or to a Commissioner, the chairman of Division One may act on such matters.

In each of the foregoing delegations and assignments to an individual Commissioner, it is contemplated that in event of his absence or disability the senior member of the division which has jurisdiction of the subject matter or proceeding who is present shall act instead of the Commissioner above designated. In event of the absence or disability of a Commissioner to whom a proceeding not referred to a division has been assigned for administrative handling or preparation of report, procedural matters in connection with such proceeding may be acted upon by the chairman of the Commission.

In respect of all such matters, petitions for reconsideration or for rehearing of any order or decision of an individual Commissioner as herein authorized shall be initially passed upon by the division to which the general subject is referred, and if the general subject has not been referred to a division, then by the Commission.

All such petitions shall be governed by the general rules of practice of the Commission.

#### BUREAUS OF THE COMMISSION

That the Bureaus of the Commission shall report as follows: (a) with respect to administrative matters, including personnel and salaries matters, to Division One, through the Commissioner to whom the Bureau reports; (b) with respect to matters of policy and functioning, through the Division or Commissioner to whom the Bureau reports, to the Division or to the Commission, as set forth below:

Bureaus of the commission	Reports through—	To—
Accounts	Commissioner in charge	Division One.
Administration	Chairman, ex officio	Division One.
Finance	Commissioner in charge	Division Four.
Formal cases, generally matters pending before divisions.	Commissioner in charge	Commission.
Informal cases	Chairman of division	Division.
Inquiry	Commissioner in charge	Division Two.
Law	Commissioner in charge	Division One.
Locomotive inspection	Commissioner in charge	Commission.
Motor carriers:	Commissioner in charge	Division Three.
Tariff matters	Commissioner in charge	Division Five.
Finance matters	Commissioner in charge	Division Two.
Personnel supervision and management.	Chairman, ex officio	Division Four.
Safety	Commissioner in charge	Division One.
Service	Commissioner in charge	Division Three.
Statistics	Commissioner in charge	Commission, except as to matters assigned to Division One.
Traffic	Commissioner in charge	Division Two.
Valuation	Commissioner in charge	Division Two.
Water carriers	Division One	Commission.

#### STANDING COMMITTEES OF THE COMMISSION

That there continue to be, as at present, two standing committees of the Commission, namely the Committee on Rules and Reports and the Legislative Committee, consisting of three members each, appointed by the Commission, which shall designate the Chairman thereof. The Chairman of the Commission may desig-

nate a Commissioner to fill a vacancy on any Committee until the Commission otherwise orders.

#### REHEARINGS AND FURTHER PROCEEDINGS

For the proper and more convenient dispatch of business, and to the ends of justice, the following regulations of the conduct of proceedings are adopted (in

addition to those governing the parties, as set out in the Rules of Practice), in respect of rehearings, reconsiderations, further hearings, and supplementary proceedings, when upon the application of any party to the decision, order, or requirement of a division of the Commission.

The application (and any supporting or opposing documents) when submitted shall be considered by the division: if the division grants the same, the application will stand as granted by the division and denied by the Commission, and further proceedings will be before the division and under its direction. Any further decision, order, or requirement of the division shall be subject to application for rehearing as provided in the act. If the division does not grant the application, the application (and supporting or opposing documents) will be considered by the Commission, which in its discretion will determine if sufficient reason for granting a rehearing or taking any other action has been made to appear.

By the Commission.

[SEAL]

W. P. BARTEL,  
Secretary.

[F. R. Doc. 40-5148; Filed, November 27, 1940;  
10:41 a. m.]

[No. 28300]

#### CLASS RATE INVESTIGATION, 1939

[No. 28310]

#### CONSOLIDATED FREIGHT CLASSIFICATION

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the 25th day of November, A. D. 1940

Upon consideration of the records in the above-entitled proceedings, and of the order by division 2 of January 9, 1940, as modified,<sup>1</sup> which required the respondents designated therein to compile by December 1, 1940, the information described therein regarding shipments made on certain days; and good cause appearing therefor:

*It is ordered*, That the said order be, and it is hereby, rescinded.

By the Commission, division 2.

[SEAL]

W. P. BARTEL,  
Secretary.

[F. R. Doc. 40-5147; Filed, November 27, 1940;  
10:41 a. m.]

#### APPLICATIONS FOR AUTHORITY TO CONSOLIDATE OR MERGE THE PROPERTIES OF FRANCHISES, OR ANY PART THEREOF, OF A MOTOR CARRIER, OR TO PURCHASE, LEASE, OR CONTRACT TO OPERATE THE PROPERTIES, OR ANY PART THEREOF, OF A MOTOR CARRIER

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 12th day of November, A. D. 1940.

The matter of applications under the above title being under consideration:

*It is ordered*, That applications for authority under section 5, Interstate Commerce Act, to consolidate or merge the properties or franchises, or any part thereof, of a motor carrier, or to purchase, lease, or contract to operate the properties, or any part thereof, of a motor carrier, shall be in the form and contain the information called for in the form of application, designated Form BMC-44, attached hereto and made a part hereof.<sup>1</sup>

*It is further ordered*, That the verified original application and eight copies thereof shall be filed with this Commission and concurrently applicants shall deliver one copy thereof, in person or by mail, to the board, commission, or official (or to the Governor where there is no board, commission, or official) having authority to regulate the business of transportation by motor vehicle in each State in which any applicant operates.

*It is further ordered*, That proof of service of copies of the application as provided in the next preceding paragraph shall be made in connection with and as part of the original verified application filed with this Commission.

*It is further ordered*, That orders of January 10, 1936, relating to Forms BMC-20 and 21 be, and they are hereby, vacated.

By the Commission, Division 4.

[SEAL]

W. P. BARTEL,  
Secretary.

[F. R. Doc. 40-5149; Filed, November 27, 1940;  
10:41 a. m.]

#### APPLICATIONS FOR AUTHORITY TO ACQUIRE CONTROL OF A MOTOR CARRIER OR MOTOR CARRIERS THROUGH OWNERSHIP OF STOCK, OR OTHERWISE

At a Session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D. C., on the 12th day of November, A. D. 1940.

The matter of applications under the above title being under consideration:

*It is ordered*, That applications for authority under section 5, Interstate Commerce Act, to acquire control of a motor carrier or motor carriers through ownership of stock, or otherwise, shall be in the form and contain the information called for in the form of application, designated Form BMC-45, attached hereto and made a part hereof.<sup>1</sup>

*It is further ordered*, That the verified original application and eight copies thereof shall be filed with this Commission and concurrently applicant(s) shall deliver one copy thereof, in person or by mail, to the board, commission, or official (or to the Governor where there is no board, commission, or official) having authority to regulate the business of transportation by motor vehicle in each State

in which the motor carrier(s) of which control is sought operates.

*It is further ordered*, That proof of service of copies of the application as provided in the next preceding paragraph shall be made in connection with and as part of the original verified application filed with this Commission.

*It is further ordered*, That order of January 10, 1936, relating to Form BMC-21 be, and it is hereby, vacated.

By the Commission, Division 4.

[SEAL]

W. P. BARTEL,  
Secretary.

[F. R. Doc. 40-5150; Filed, November 27, 1940;  
10:41 a. m.]

#### SECURITIES AND EXCHANGE COMMISSION.

IN THE MATTER OF A PROCEEDING TO DETERMINE WHETHER JOSEPH L. MERRILL SHOULD BE SUSPENDED OR EXPelled FROM MEMBERSHIP ON CERTAIN NATIONAL SECURITIES EXCHANGES PURSUANT TO SECTION 19 (a) (3) OF THE SECURITIES EXCHANGE ACT OF 1934

ORDER AMENDING ORDER TO SHOW CAUSE AND FOR HEARING, DESIGNATING OFFICER, TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of November 1940.

*It is ordered*, That the order to show cause and for hearing in the above-entitled matter, adopted by the Commissioner on October 16, 1940,<sup>1</sup> as amended on October 31, 1940, be and the same is hereby further amended to postpone the hearing from 10 A. M. on November 27, 1940, until 10 A. M. on December 11, 1940, at the New York Regional Office of the Securities and Exchange Commission, 120 Broadway, New York, New York.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-4159; Filed, November 27, 1940;  
11:29 a. m.]

[File No. 1-674]

IN THE MATTER OF WILKES-BARRE & EASTERN RAILROAD COMPANY 5% FIRST MORTGAGE GOLD BONDS DUE 1942

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 26th day of November, A. D. 1940.

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1(b) promulgated thereunder, having made application to strike from listing and registration the 5% First

<sup>1</sup> 5 F.R. 2941.

<sup>1</sup> Filed as part of the original document.

<sup>1</sup> 5 F.R. 4138.

Mortgage Gold Bonds due 1942 of Wilkes-Barre & Eastern Railroad Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

*It is ordered,* That the matter be set down for hearing at 10 A. M. on Monday, December 16, 1940, at the office of the Securities & Exchange Commission, 120

Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

*It is further ordered,* That Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the

production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 40-4158; Filed, November 27, 1940;  
11:29 a. m.]

